

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

---

THE INDIAN ARMS ACT, 1878,

AS MODIFIED UP TO THE 1ST JULY, 1892.

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SIMLA:  
PRINTED AT THE GOVERNMENT CENTRAL PRINTING OFFICE.  
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SJMLA :

PRINTED AT THE GOVERNMENT CENTRAL PRINTING OFFICE.

The Indian Arms Act, 1878, has been repealed in part by Act XII of 1891.

The following changes have been made in reprinting the Act :—

- (1) repealed matter has been omitted, explanatory notes being inserted .
- (2) references to repealed Acts have been altered as directed by the enactment which effects the repeal, an explanatory footnote being inserted :
- (3) some further footnotes have been inserted for convenience of reference .
- (4) the number and year of Acts referred to in the text have been noted in the inner margin .
- (5) section-numbers occurring in the text have been printed in figures instead of in words .
- (6) the headings to the pages have been amplified.



# THE INDIAN ARMS ACT, 1878.

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*V.—Licenses.*

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THE FIRST SCHEDULE.—ENACTMENTS REPEALED.  
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# ACT No. XI OF 1878.<sup>[a]</sup>

(Received the Governor General's assent on the 15th March,  
1878.)

An Act to consolidate and amend the law  
relating to Arms, Ammunition and Mili-  
tary Stores.

[As modified up to the 1st July, 1892.]

**W**HEREAS it is expedient to consolidate and <sup>Preamble.</sup>  
amend the law relating to arms, ammunition  
and military stores; It is hereby enacted as follows:—

## *I.—Preliminary.*

1. This Act may be called the Indian Arms Act, <sup>Short title</sup>  
1878; and it extends to the whole of British <sup>Local extent.</sup>  
India.

But nothing herein contained shall apply to— <sup>Savings.</sup>

(a) arms, ammunition or military stores on board  
any sea-going vessel and forming part of  
her ordinary armament or equipment, or

(b) the

[a] Act XI of 1878 has been declared in force in Upper Burma generally, except the Shan States—see Act XX of 1886, s. 6, in Burma Code, Ed. 1889, p. 364; and in the Sonthal Parganas—see Regulation III of 1872 (as amended by Regulation III of 1886), s. 3 (a), in Bengal Code, Vol. I, Ed. 1889, p. 597. It has been declared, under the Scheduled Districts Act, 1874, to be in force in the Districts of Hazaribagh, Lohardaga and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singbhum—see Gazette of India, 1881, Part I, p. 504.

As to the trial in a Presidency-town of offences against the Act, see Act X of 1882, s. 184. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

A license granted under the Indian Explosives Act, 1884, for the manufacture, possession, sale, transport or importation of an explosive may be given the effect of a like license granted under the Indian Arms Act, 1878—see Act IV of 1884, s. 15, in General Acts, 1882-84 (Part II), Ed. 1885, p. 395.

*(I.—Preliminary.—Sections 2-4.)*

(b) the manufacture, conversion, sale, import, export, transport, bearing or possession of arms, ammunition or military stores by order of the Government, or by a public servant or a volunteer enrolled under the Indian Volunteers Act, 1869,<sup>[a]</sup> in the course of his duty as such public servant or volunteer. XX of

Commence-  
ment.

2. This Act shall come into force on such day<sup>[b]</sup> as the Governor General in Council by notification in the Gazette of India appoints.

Repeal of  
enactments.

3. On and from that day the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. But all authorities and permissions given, licenses and exemptions granted, orders and appointments made, notifications published, and rules, conditions and forms prescribed, under any enactment hereby repealed, shall be deemed to be respectively given, granted, made, published and prescribed under this Act.

And all such authorities, permissions, licenses and exemptions shall, except as otherwise provided by this Act, continue in force for the periods for which they may have been given or granted respectively, or, where no such period is expressly fixed, for one year from the date<sup>[b]</sup> on which this Act comes into force, and shall then cease to have effect.

Interpreta-  
tion-clause.

4. In this Act, unless there be something repugnant in the subject or context,—

“cannon” includes also all howitzers, mortars, wall-pieces, mitrailleuses and other ordnance and machine-guns, all parts of the same, and all carriages, platforms and appliances for mounting, transporting and serving the same :

“arms” includes fire-arms, bayonets, swords, daggers, spears, spear-heads and bows and arrows, also

cannon

[a] Printed, General Acts, 1867-76, Ed. 1887, p. 181.

[b] The 1st October, 1878—see Gazette of India, 1878, Pt. I, p. 389.

*(II.—Manufacture, Conversion and Sale.—Section 5.)*

cannon and parts of arms, and machinery for manufacturing arms :

“ammunition ” includes also all articles specially designed for torpedo service and submarine mining, rockets, gun-cotton, dynamite, lithofracteur and other explosive or fulminating material, gun-flints, gun-wads, percussion-caps, fuses and friction-tubes, all part of ammunition and all machinery for manufacturing ammunition, but does not include lead, sulphur or saltpetre :

“military stores,” in any section of this Act as applied to any part of British India, means any military stores to which the Governor General in Council may from time to time, by notification in the Gazette of India, specially extend such section in such part, and includes also all lead, sulphur, saltpetre and other material to which the Governor General in Council may from time to time so extend such section :

“license ” means a license granted under this Act, and “licensed ” means holding such license.

*II.—Manufacture, Conversion and Sale.*

5. No person shall manufacture, convert or sell, or keep, offer or expose for sale, any arms, ammunition or military stores except under a license and in the manner and to the extent permitted thereby.

Unlicensed  
manufacture,  
conversion  
and sale pro-  
hibited.

Nothing herein contained shall prevent any person from selling any arms or ammunition which he lawfully possesses for his own private use to any person who is not by any enactment for the time being in force prohibited from possessing the same; but every person so selling arms or ammunition to any person other than a person entitled to possess the same by reason of an exemption under section 27 of this Act

shall

## (III.—Import, Export and Transport.—Sections 6-7.)

shall, without unnecessary delay, give to the Magistrate of the district, or to the officer in charge of the nearest police-station, notice of the sale and of the purchaser's name and address.

## III.—Import, Export and Transport.

Unlicensed  
importation  
and exportation  
prohibited.

6. No person shall bring or take by sea or by land into or out of British India any arms, ammunition or military stores except under a license and in the manner and to the extent permitted by such license.

Importation  
and exportation  
of  
arms and  
ammunition  
for private  
use.

Nothing in the first clause of this section extends to arms (other than cannon) or ammunition imported or exported in reasonable quantities for his own private use by any person lawfully entitled to possess such arms or ammunition; but the Collector of Customs or any other officer empowered by the Local Government in this behalf by name or in virtue of his office may at any time detain such arms or ammunition until he receives the orders of the Local Government thereon.

*Explanation.*—Arms, ammunition and military stores taken from one part of British India to another by sea or across intervening territory not being part of British India, are taken out of and brought into British India, within the meaning of this section.

Sanction of  
Local Government  
required to  
warehousing  
of arms, &c.

7. Notwithstanding anything contained in the Sea Customs Act, 1878, [a] no arms, ammunition or military stores shall be deposited in any warehouse licensed under section 16 of that Act without the sanction of the Local Government.

VIII of 1878.

8. [*Levy of duties on arms, &c., imported by sea.*]  
*Repealed by Act XII of 1891.*

9. [*Power to impose duty on imports by land.*]  
*Repealed by Act XII of 1891.*

10. The

[a] For Act VIII of 1878 see the revised edition, as modified up to 1st July, 1891, published by the Legislative Department.

1878.]

*Arms*

(III.—*Import, Export and Transport.*—Sections 10-12.)

10. The Governor General in Council may, from time to time, by notification in the Gazette of India,—Power to prohibit transport.

(a) regulate or prohibit the transport of any description of arms, ammunition or military stores over the whole of British India or any part thereof, either altogether or except under a license and to the extent and in the manner permitted by such license, and

(b) cancel any such notification.

*Explanation.*—Arms, ammunition or military stores transhipped at a port in British India are transported within the meaning of this section. Transshipment of arms.

11. The Local Government, with the previous sanction of the Governor General in Council, may, at any places along the boundary-line between British India and foreign territory, and at such distance within such line as it deems expedient, establish searching-posts at which all vessels, carts and baggage-animals, and all boxes, bales and packages in transit, may be stopped and searched for arms, ammunition and military stores by any officer empowered by such Government in this behalf by name or in virtue of his office. Power to establish searching stations.

12. When any person is found carrying or conveying any arms, ammunition or military stores, whether covered by a license or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by him with intent to use them, or that the same may be used, for any unlawful purpose, any person may without warrant apprehend him and take such arms, ammunition or military stores from him. Arrest of persons conveying arms, &c., under suspicious circumstances.

Any person so apprehended, and any arms, ammunition or military stores so taken by a person not being a Magistrate or Police-officer, shall be delivered over as soon as possible to a Police-officer. Procedure where arrest made by person not Magistrate or Police-officer.

All

*(IV.—Going armed and possessing Arms, &c.—  
Sections 13-16.)*

All persons apprehended by, or delivered to, a Police-officer, and all arms and ammunition seized by or delivered to any such officer under this section, shall be taken without unnecessary delay before a Magistrate.

*IV.—Going armed and possessing Arms, &c.*

Prohibition of  
going armed  
without li-  
cense.

**13.** No person shall go armed with any arms except under a license and to the extent and in the manner permitted thereby.

Any person so going armed without a license or in contravention of its provisions may be disarmed by any Magistrate, Police-officer or other person empowered by the Local Government in this behalf by name or by virtue of his office.

Unlicensed  
possession of  
fire-arms, &c.

**14.** No person shall have in his possession or under his control any cannon or fire-arms, or any ammunition or military stores, except under a license and in the manner and to the extent permitted thereby [a].

Possession of  
arms of any  
description  
without  
license pro-  
hibited in  
certain  
places.

**15.** In any place to which section 32, clause 2, of Act No. XXXI of 1860[b] applies at the time this Act comes into force or to which the Local Government, with the previous sanction of the Governor General in Council, may by notification in the local official Gazette specially extend this section, no person shall have in his possession any arms of any description, except under a license and in the manner and to the extent permitted thereby.

Arms of  
which posses-  
sion has be-  
come unlaw-  
ful to be de-  
posited at  
police-sta-  
tion.

**16.** Any person possessing arms, ammunition or military stores, the possession whereof by him has, in consequence of the cancellation or expiry of a license or by the issue of a notification under section 15, become

[a] Portion repealed by Act XII of 1891 is omitted.

[b] Act XXXI of 1860 was repealed by s. 3 of this Act.

*(V.—Licenses.—Section 17.)*

become unlawful, shall deposit the same without unnecessary delay with the officer in charge of the nearest police-station.

If the owner of anything deposited under this section does not within three years from the date on which such thing is so deposited produce a license authorising him to possess the same and apply for delivery of the same, such thing shall be forfeited to Her Majesty.

*V.—Licenses.*

17. The Governor General in Council may from time to time, by notification in the Gazette of India, make rules to determine the officers by whom, the form in which, and the terms and conditions on and subject to which, any license shall be granted; and may by such rules among other matters—

Power to  
make rules as  
to licenses.

- (a) fix the period for which such license shall continue in force;
- (b) fix a fee payable by stamp or otherwise in respect of any such license granted in a place to which section 32, clause 2, of Act No. XXXI of 1860[\*] applies at the time this Act comes into force, or in respect of any such license other than a license for possession granted in any other place;
- (c) direct that the holder of any such license other than a license for possession shall keep a record or account, in such form as the Local Government may prescribe, of anything done under such license, and exhibit such record or account when called upon by an officer of Government to do so;
- (d) empower

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[\*] Act XXXI of 1860 was repealed by s. 3 of this Act.

*(V.—Licenses.—Section 18.)*

- (d) empower any officer of Government to enter and inspect any premises in which arms, ammunition or military stores are manufactured or kept by any person holding a license of the description referred to in section 5 or section 6 ;
- (e) direct that any such person shall exhibit the entire stock of arms, ammunition and military stores in his possession or under his control to any officer of Government so empowered ; and
- (f) require the person holding any license or acting under any license to produce the same, and to produce or account for the arms, ammunition or military stores covered by the same when called upon by an officer of Government so to do.

Cancelling  
and suspen-  
sion of  
license.

**18. Any license may be cancelled or suspended—**

- (a) by the officer by whom the same was granted, or by any authority to which he may be subordinate, or by any Magistrate of a District, or Commissioner of Police in a Presidency-town, within the local limits of whose jurisdiction the holder of such license may be, when, for reasons to be recorded in writing, such officer, authority, Magistrate or Commissioner deems it necessary for the security of the public peace to cancel or suspend such license ; or
- (b) by any Judge or Magistrate before whom the holder of such license is convicted of an offence against this Act, or against the rules made under this Act ; and

the Local Government may at its discretion, by a notification in the local official Gazette, cancel or suspend

*(VI.—Penalties.—Section 19.)*

suspend all or any licenses throughout the whole or any portion of the territories under its administration.

*VI.—Penalties.*

19. Whoever commits any of the following offences (namely) :—

For breach of sections 5, 6, 10, 13 to 17.

- (a) manufactures, converts or sells, or keeps, offers or exposes for sale, any arms, ammunition or military stores in contravention of the provisions of section 5 ;
- (b) fails to give notice as required by the same section ;
- (c) imports or exports any arms, ammunition or military stores in contravention of the provisions of section 6 ;
- (d) transports any arms, ammunition or military stores in contravention of a regulation or prohibition issued under section 10 ;
- (e) goes armed in contravention of the provisions of section 13 ;
- (f) has in his possession or under his control any arms, ammunition or military stores in contravention of the provisions of section 14 or section 15 ;
- (g) intentionally makes any false entry in a record or account which, by a rule made under section 17, clause (c), he is required to keep ;
- (h) intentionally fails to exhibit anything which, by a rule made under section 17, clause (e), he is required to exhibit ; or
- (i) fails to deposit arms, ammunition or military stores, as required by section 14 or section 16 ;

shall be punished with imprisonment for a term which may extend to three years, or with fine or with both.

20. Whoever

## (VI.—Penalties.—Sections 20-23.)

For secret breaches of sections 5, 6, 10, 14 and 15. **20.** Whoever does any act mentioned in clause (a), (c), (d) or (f) of section 19, in such manner as to indicate an intention that such act may not be known to any public servant as defined in the Indian Penal Code, [a] or to any person employed upon a railway or to the servant of any public carrier,

For conceal- ing arms, &c. and whoever, on any search being made under section 25, conceals or attempts to conceal any arms, ammunition or military stores,

shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

For breach of licen se. **21.** Whoever, in violation of a condition subject to which a license has been granted, does or omits to do any act shall, when the doing or omitting to do such act is not punishable under section 19 or section 20, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

For know- ingly pur- chasing arms, &c., from un- licensed person. **22.** Whoever knowingly purchases any arms, ammunition or military stores from any person not licensed or authorised under the proviso to section 5 to sell the same; or

For deliver- ing arms, &c., to person not authorized to possess them. delivers any arms, ammunition or military stores into the possession of any person without previously ascertaining that such person is legally authorized to possess the same,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for breach of rule. **23.** Any person violating any rule made under this Act, and for the violation of which no penalty is provided by this Act, shall be punished with imprisonment for a term which may extend to one month, or with

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(VI.—Penalties.—Section 24. VII.—Miscellaneous.—Sections 25-26.)

with fine which may extend to two hundred rupees, or with both.

24. When any person is convicted of an offence punishable under this Act, committed by him in respect of any arms, ammunition or military stores, it shall be in the discretion of the convicting Court or Magistrate further to direct that the whole or any portion of such arms, ammunition or military stores, and any vessel, cart or baggage-animal used to convey the same, and any box, package or bale in which the same may have been concealed, together with the other contents of such box, package or bale, shall be confiscated. Power to confiscate.

VII.—Miscellaneous.

25. Whenever any Magistrate has reason to believe that any person residing within the local limits of his jurisdiction has in his possession any arms, ammunition or military stores for any unlawful purpose, or that such person cannot be left in the possession of any such arms, ammunition or military stores without danger to the public peace, Search and seizure by Magistrate.

such Magistrate, having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person or in which such Magistrate has reason to believe such arms, ammunition or military stores are or is to be found, and may seize and detain the same, although covered by a license, in safe custody for such time as he thinks necessary.

The search in such case shall be conducted by, or in the presence of, a Magistrate, or by, or in the presence of, some officer specially empowered in this behalf by name or in virtue of his office by the Local Government.

26. The Local Government may at any time order or cause to be seized any arms, ammunition or military stores in the possession of any person, notwithstanding Seizure and detention by Local Government.

ing

## (VII.—Miscellaneous.—Sections 27-29.)

ing that such person is licensed to possess the same, and may detain the same for such time as it thinks necessary for the public safety.

Power to  
exempt.

27. The Governor General in Council may from time to time, by notification published in the Gazette of India,—

- (a) exempt any person by name or in virtue of his office, or any class of persons, or exclude any description of arms or ammunition, or withdraw any part of British India, from the operation of any prohibition or direction contained in this Act ; and
- (b) cancel any such notification, and again subject the persons or things or the part of British India comprised therein to the operation of such prohibition or direction.

Information  
to be given  
regarding  
offences.

28. Every person aware of the commission of any offence punishable under this Act shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information of the same to the nearest Police-officer or Magistrate, and

every person employed upon any railway or by any public carrier shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information to the nearest Police-officer regarding any box, package or bale in transit which he may have reason to suspect contains arms, ammunition or military stores in respect of which an offence against this Act has been or is being committed.

Sanction re-  
quired to cer-  
tain proceed-  
ings under sec-  
tion 19, cl.  
(f).

29. Where an offence punishable under section 19, clause (f), has been committed within three months from the date [a] on which this Act comes into force in any province, district or place to which section

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[a] The 1st October, 1878.

(VII.—*Miscellaneous.*—Sections 30-32.)

section 32, clause 2, of Act XXXI of 1860<sup>[a]</sup> applies at such date, or where such an offence has been committed in any part of British India not being such a district, province or place, no proceedings shall be instituted against any person in respect of such offence without the previous sanction of the Magistrate of the District or, in a Presidency-town, of the Commissioner of Police.

**30.** Where a search is to be made under the Code of Criminal Procedure, 1882, <sup>Searches in the case of offences against section 19, clause (f), how conducted.</sup> <sup>x of 1882.</sup> <sup>[b]</sup> in the course of any proceedings instituted in respect of an offence punishable under section 19, clause (f), such search shall, notwithstanding anything contained in the said Code <sup>[b]</sup>, be made in the presence of some officer specially appointed by name or in virtue of his office by the Local Government in this behalf, and not otherwise.

**31.** Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by this Act: Provided that no person shall be punished twice for the same offence. <sup>Operation of other laws not barred.</sup>

**32.** The Local Government may from time to time, by notification in the local official Gazette, direct a census to be taken of all fire-arms in any local area, and empower any person by name or in virtue of his office to take such census. <sup>Power to take census of fire-arms.</sup>

On the issue of any such notification, all persons possessing any such arms in such area shall furnish to the person so empowered such information as he may require in reference thereto, and shall produce such arms to him if he so requires.

Any

<sup>[a]</sup> Act XXXI of 1860 was repealed by s. 3 of this Act.

<sup>[b]</sup> The references to Act X of 1872 and Act IV of 1877 are altered in accordance with Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

(VII.—*Miscellaneous.*—Section 33.)

Any person refusing or neglecting to produce any such arms when so required shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Notice and  
limitation of  
proceedings.

**33.** No proceeding other than a suit shall be commenced against any person for anything done in pursuance of this Act, without having given him at least one month's previous notice in writing of the intended proceeding and of the cause thereof, nor after the expiration of three months from the accrual of such cause.

1878.]

*Arms.*

## THE FIRST SCHEDULE.

## ENACTMENTS REPEALED.

(See section 3.)

Number and year.	Title.	Extent of repeal.
XVIII of 1841	An Act for consolidating and amending the enactments concerning the exportation of Military Stores.	So much as has not been repealed.
XXX of 1854	An Act to provide for the levy of duties of Customs in the Arracan, Pegu, Martaban and Tenasserim Provinces.	In the preamble, the words "and that the exportation of munitions of war from any of these Provinces into foreign States should be prohibited," Section 11 [a].
XXXI of 1860	An Act relating to the manufacture, importation and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.	So much as has not been repealed.
VI of 1866	An Act to continue Act No XXXI of 1860 (relating to the manufacture, importation and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases), and for other purposes.	The whole.
III of 1872	The Santhal Parganas Settlement Regulation.	So much of the schedule [b] as relates to Act XXXI of 1860 and Act VI of 1866.
[c] IX of 1874	The Arakan Hills District Laws Regulation, 1874.	So much of the schedule as relates to Act XVIII of 1841.
[d] XV of 1874	An Act for declaring the local extent of certain enactments and for other purposes.	So much of the first schedule as relates to Act XVIII of 1841.

[a] The rest of Act XXX of 1854 was repealed by Act XX of 1886, s. 5, printed, Burma Code, Ed. 1889, p. 364.

[b] A new schedule has since been substituted for the schedule here mentioned—see Bengal Code, Vol. I, Ed. 1889, p. 605.

[c] Printed, Burma Code, Ed. 1889, p. 353.

[d] Printed, General Acts, 1867-76, Ed. 1897, p. 497.

THE

*Arms.*

[ACT XI, 1878.]

THE SECOND SCHEDULE.

ARMS, &C., LIABLE TO DUTY.

[*Repealed by Act XII of 1891.*]

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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# THE INDIAN TARIFF ACT, 1894,

AS MODIFIED UP TO THE 1ST MARCH, 1896.

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CALCUTTA:  
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.  
1896.

Price Nine Annas.

CALCUTTA :  
GOVERNMENT OF INDIA CENTRAL PRINTING OFFICE,  
2, HASTINGS STREET.

# THE INDIAN TARIFF ACT, 1894.

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SCHEDULE V.—EXPORT TARIFF.



## ACT No. VIII OF 1894.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 10th March, 1894.)*

An Act to amend the law relating to Customs-duties, and for other purposes.

[As modified up to the 1st March, 1896.]

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea, and to provide for the levy of duties on goods crossing the frontier of certain Foreign European Settlements in India and of the territories of certain Native Chiefs; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Tariff Act, 1894. Title, extent and commencement.

(2) It extends to the whole of British India except Aden and Perim; and

(3) It shall come into force at once.

2. (1) The Acts mentioned in the first schedule are repealed to the extent specified therein. Repeal.

(2) But all notifications published, and rules and orders made, under any of those Acts, and in force immediately before the commencement of this Act, shall, so far as they are consistent herewith, be deemed to have been respectively published and made under this Act: and

XVI of 1875. (3) All references made to the Indian Tariff Act,  
XI of 1882. 1875<sup>[a]</sup>, and the Indian Tariff Act, 1882<sup>[b]</sup>, in Acts or Regulations passed before the commencement of this Act, shall be deemed to be made to this Act.

(4) Nothing

<sup>[a]</sup> Act XVI of 1875 was repealed by Act XI of 1882, s. 2.

<sup>[b]</sup> Act XI of 1882 is repealed by s. 2 (1) of this Act.

(4) Nothing in this Act shall authorize the levy of duties of customs on any article carried from one customs-port in British India to another such port, except salt, opium and spirit.

Duties  
specified in  
schedules to  
be levied.

3. There shall be levied and collected, in every port to which this Act applies, the duties specified in the second, third, fourth and fifth schedules.

Export of  
pepper from  
Cochin.

4. On all pepper exported by sea from the port of Cochin there shall be levied such duty not exceeding nine rupees per khandi as the Governor of Fort Saint George in Council may determine ; and at the close of each year, or as soon thereafter as may be convenient, the Customs-Collector at the said port shall, after deducting the expenses of collection, pay the duty collected under this section to the Governments of Travancore and Cochin in such proportion and in such manner as the Governor of Fort Saint George in Council may direct.

Duties on  
goods cross-  
ing certain  
frontiers.

5. (1) Duties of customs shall be levied at the rates respectively prescribed in the second, third and fourth schedules on goods passing by land out of, and in the fifth schedule on goods passing by land into,—

(a) Foreign European Settlements in India ;

(b) any territory declared, under the power hereinafter in this section conferred, to be foreign territory.

(2) Subject to the control of the Governor General in Council, the Governor of Fort Saint George in Council and the Governor of Bombay in Council may, by notification in the local official Gazette, respectively, declare that the territory of any Native Chief situate within, or bordering on the territories respectively administered by such Governors, but not subject to the jurisdiction of the Courts and Civil authorities of such territories, shall be deemed, for the purposes of this section, to be foreign territory.

(3) The Governor General in Council may, by notification in the Gazette of India, declare that the territory of any other Native Chief shall be deemed

deemed, for the purposes of this section, to be foreign territory.

6. In Act No. XVI of 1863 [<sup>a</sup>], section 1, for the words "calculated at ten" the words "not exceeding five" shall be substituted.

Amendment of Act XVI, 1863, section 1.

7. (1) Salt, opium and spirit imported from any port in British India, and protected by the certificate of an officer empowered in that behalf by the Governor General in Council or the Local Government, are chargeable with only the amount, if any, by which the duty leviable thereon under the third schedule exceeds the duty shown by such certificate to have been already paid in respect thereof.

Duty on salt, opium and spirit, when protected by a certificate.

(2) The amount, if any, paid to the Government as the price of such salt or opium is not duty within the meaning of this section.

(3) Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs Act, 1878 [<sup>b</sup>].

VIII of 1878.

8. So far as regards the Presidency of Fort Saint George, the unrepealed provisions of Act No. VI of 1844 [<sup>c</sup>], and, so far as regards the Presidency of Bombay, the unrepealed provisions of Act No. XXIX of 1857 [<sup>d</sup>], relating to the levy of duties and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of section 5, sub-section (1), clause (b).

Application of certain provisions as to duties and goods.

9. All notifications published under this Act may be cancelled by the authority publishing the same.

Power to cancel notifications.

10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making

When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

[<sup>a</sup>] Printed in General Acts, 1834-36, Ed. 1887, p. 382

[<sup>b</sup>] For Act VIII of 1878 see the revised edition, as modified up to 1st July, 1891, published by the Legislative Department.

[<sup>c</sup>] Printed in the Madras Code, Ed. 1883, p. 119.

[<sup>d</sup>] For Act XXIX of 1857 see the revised edition, as modified up to 1st December, 1895, published by the Legislative Department.

making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—

(a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract-price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty, or remitted duty, and he shall not be liable to pay or be sued for or in respect of such deduction.

Amendment  
of Act VIII  
of 1878, sec-  
tion 23.

11. In the second paragraph of section 23 of the Sea Customs Act, 1878 [a], the words “with the previous sanction of the Governor General in Council” shall be inserted after the word “may”. VIII of 1878.

SCHEDULE I.—(ACTS REPEALED)

Number and year	Title	Extent of repeal
<i>Acts of the Governor General in Council.</i>		
XI of 1882	Indian Tariff Act, 1882	So much as has not been repealed.
[b] II of 1887	An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882	Section 8.
[b] II of 1888	An Act to provide for the levy of a customs-duty on Petroleum.	Section 1.
VIII of 1889	An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.	Sections 3, 4 and 5.
XII of 1890	An Act to amend the Indian Tariff Act, 1882	The whole.
I of 1892	An Act to amend the Indian Tariff Act, 1882.	Ditto.
IX of 1893	An Act to amend the Indian Tariff Act, 1882, as amended by subsequent Acts.	Ditto.

SCHEDULE II.

[a] For Act VIII of 1878 see the revised edition, as modified up to 1st July, 1891, published by the Legislative Department.

[b] Printed in General Acts, 1885-88, Ed. 1889.

[<sup>a</sup>] SCHEDULE II.—(IMPORT TARIFF.)

## Arms, Ammunition and Military Stores,

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including also any articles, other than those included in Nos. 1 to 12 of this Schedule, which are "arms" within the meaning of the Indian Arms Act,<sup>b</sup> and any articles which the Governor General in Council may, by notification in the Gazette of India, declare to be "ammunition" or "military stores" for the purposes of this Act.

Names of Articles.	Duty.	
	Rs.	a.
1. Firearms other than pistols, including gas and air guns and rifles, for each . . . . .	50	0
2. Barrels for the same, whether single or double, for each . . . . .	30	0
3. Pistols, for each . . . . .	15	0
4. Barrels for the same, whether single or double, for each . . . . .	10	0
5. Springs used for firearms, including gas and air guns and rifles, for each . . . . .	8	0
6. Gunstocks, sights, blocks and rollers, for each . . . . .	5	0
7. Revolver-breeches, for each cartridge they will carry . . . . .	2	8
8. Extractors, nipples, heel-plates, pins, screws, tangs, bolts, thumb-pieces, triggers, trigger-guards, hammers, pistons, plates and all other parts of a firearm (including a gas and air gun or rifle) not herein otherwise provided for, and all tools used for cleaning or putting together or loading the same, for each . . . . .	1	8
9. Machines for making, loading, or closing cartridges, for each . . . . .	10	0
10. Machines for capping cartridges, for each . . . . .	2	8

*Exception I.*—Articles falling under the 5th, 6th, 8th, 9th or 10th head of the foregoing list, when they appertain to a firearm falling under the 1st or 3rd head, and are fitted into the same case with such firearm, are free.

*Exception II.*—The following are also free, namely:—

(a) Arms forming part of the regular equipment of an officer entitled to wear diplomatic, military, naval, or police uniform;

(b) a sword, a revolver, or a pair of pistols, when accompanying an officer of Her Majesty's Regular Forces, or a commissioned officer of a volunteer corps, or certified by the commandant of the corps to which such officer belongs, or,

in

[<sup>a</sup>] The Schedules II to V here printed were substituted for the former Schedules by Act III of 1898.

[<sup>b</sup>] For Act XI of 1878 see the revised edition, as modified up to 1st July, 1892, published by the Legislative Department.

## Tariff.

[ACT VIII]

in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving, to be imported by the officer for the purposes of his equipment;

- (c) swords and revolvers which are certified by an Inspector-General of Police to be part of the ordinary equipment of members of the Police force under his charge;
- (d) swords forming part of the equipment of native commissioned officers of Her Majesty's Army;
- (e) swords for presentation as army or volunteer prizes;
- (f) arms, ammunition, and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a Native State in India which may be maintained and organised for Imperial Service;
- (g) Morris tubes and patent ammunition when imported by officers commanding British and Native regiments or volunteer corps, for the instruction of their men.

*Proviso 1.*—No duty in excess of ten per cent *ad valorem* shall be levied upon any of the articles numbered 1 to 10 in the foregoing list when they are imported in reasonable quantity, for his own private use, by any person lawfully entitled to possess the same.

*Proviso 2.*—When any articles which have been otherwise imported, and upon which duty has been levied or is leviable under numbers 1 to 10, are purchased retail from the importer by a person lawfully entitled as aforesaid, in reasonable quantity for his own private use, the importer may apply to the Customs-Collector for a refund or remission (as the case may be) of so much of the duty thereon as is in excess of ten per cent *ad valorem*; and, if such Collector is satisfied as to the identity of the articles, and that such importer is in other respects entitled to such refund or remission, he shall grant the same accordingly.

	Tariff valuation.	Rate of duty.
	£ s. d.	
11. Gunpowder, all sorts . . . . .	<i>ad val-</i>	} 10 per cent.
12. All other sorts of arms, ammunition, and mili- tary stores . . . . .	<i>orem.</i> "	

SCHEDULE III

1894.]

## Tariff.

## [\*] SCHEDULE III.—(IMPORT TARIFF.)

## LIQUORS, OPIUM, SALT AND SALTED FISH.

No.	Names of Articles.	Per	Rate of Duty.
			<i>£ a.</i>
1	<b>LIQUORS—</b>		
	Ale, beer and porter . . . .	Imperial gallon or six quart bottles.	0 1
	Cider and other fermented liquors . . . . .		
	Liqueurs . . . . .	" "	6 0
	Spirit which has been rendered effectually and permanently unfit for human consump- tion . . . . .	<i>ad valorem</i>	Five per cent.
	Spirit when used in drugs, medicines or chemicals in a proportion of less than twenty per cent of spirit of the strength of London proof . . . . .		
	Spirit when so used in a proportion of twenty per cent and upwards	Imperial gallon or six quart bottles of the strength of London proof.	6 0 and the duty to be increased or reduced in pro- portion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles . . . . .	Imperial gallon or six quart bottles.	8 0
	Spirit, other sorts . . . .	Imperial gallon or six quart bottles of the strength of London proof.	6 0 and the duty to be increased or reduced in pro- portion as the strength of the spirit exceeds or is less than London proof.
	<b>Wines—</b>		
	Champagne and all other sparkling wines not contain- ing more than 42 per cent of proof spirit.	Imperial gallon or six quart bottles.	2 8

All

[\*] See first footnote on p 7, *supra*.

SCHEDULE III.—(IMPORT TARIFF)—*contd.*

LIQUORS, OPIUM, SALT AND SALTED FISH—*contd.*

No.	Names of Articles.	Per	Rate of Duty.
	<b>LIQUORS—<i>contd.</i></b>		<b>R a.</b>
	<b>Wines—<i>contd.</i></b>		
	All other sorts of wines not containing more than 42 per cent of proof spirit. Provided that all sparkling and still wines containing more than 42 per cent of proof spirit shall be liable to duty at the rate applicable to spirit, other sorts.	Imperial gallon or six quart bottles.	1 0
2	OPIUM, not covered by a Government pass.	ser of 80 tolas .	24 0
3	SALT . . . . .	Indian maund of 82½lb avoirdupois weight.	The rate at which excise-duty is for the time being leviable on salt manufactured in the place where the import takes place.
4	SALTED FISH, wet or dry .	Indian maund of 82½lb avoirdupois weight.	Such rate or rates of duty not exceeding twelve annas, as the Governor General in Council may, by notification in the Gazette of India, from time to time prescribe.

[\*] SCHEDULE IV.—(IMPORT TARIFF.)

GENERAL DUTIES.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Animals, living.</b>		<b>R a.</b>	
1	HORSES, CATTLE, SHEEP and all other living animals of all kinds .	...	...	Free.

Articles

[\*] See first footnote on p. 7, *supra*.

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## Tariff.

SCHEDULE IV—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Articles of Food and Drink.</b>		£ a.	
2	COFFEE . . . . .	cwt.	70 0	Five per cent.
3	FRUITS AND VEGETABLES, except fresh fruits and vegetables not separately enumerated, which are free—			
	Almonds without shell . .	"	48 0	"
	" in the shell . . . .	"	15 8	"
	Cashew or cajoo kernels . .	"	12 0	"
	Cocoanuts . . . . .	thousand	35 0	"
	" kernel (khopra) . . .	cwt	11 0	"
	Cuculants, European, in cases .	"	10 0	"
	" " in cans . . . .	"	22 0	"
	" Persian . . . . .	"	14 0	"
	Dates, dry, in bags . . . .	"	5 8	"
	" wet " . . . . .	"	4 0	"
	" " in pots and boxes . .	"	8 8	"
	Figs, Persian, dried . . . .	"	8 0	"
	Garlic . . . . .	"	5 0	"
	Hops . . . . .	"	...	Free.
	Pistachio nuts . . . . .	cwt.	32 0	Five per cent.
	Prunes, Bussora (álu-Bokhara) .	"	20 0	"
	Raisins, black . . . . .	"	10 0	"
	" kishmish, Persian Gulf and Red Sea . . . . .	"	15 0	"
	" Munakka, Persian Gulf and Red Sea . . . . .	"	9 0	"
	" other sorts . . . . .	...	<i>ad valorem</i>	"
	Walnuts . . . . .	cwt.	10 0	"
	All other sorts of fruits and vege- tables . . . . .	...	<i>ad valorem</i>	"
4	GRAIN AND PULSE, including broken grain and pulse, but not including flour . . . . .	...	...	Free.
5	MINERAL AND AERATED WATERS, and all unfermented and non-alco- holic beverages . . . . .	...	<i>ad valorem</i>	Five per cent.
6	PROVISIONS, OILMAN'S STORES AND GROCERIES—			
	Bacon in caavas and cans, jowls and cheeks . . . . .	lb	0 14	"

Beef

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Articles of Food and Drink.</b> — <i>contd.</i>		<b>₹ a.</b>	
6	<b>PROVISIONS, OILMAN'S STORES AND GROCERIES—<i>contd.</i></b>			
	Beef and Pork . . . . .	tierce of 3 cwt. barrel of 2 cwt.	100 0 75 0	Five per cent.
	Biche de mer . . . . .	cwt.	50 0	
	Butter . . . . .	lb	1 0	"
	Cheese . . . . .	"	0 14	"
	China preserves . . . . .	box of six jars.	5 8	"
	„ fruit preserves, dry			
	„ candied . . . . .	lb	0 5	"
	Cocum . . . . .	cwt.	5 0	"
	Fish-maws . . . . .	"	100 0	"
	Flour . . . . .	barrel or sack of 200lb	20 0	"
	Ghi . . . . .	cwt.	40 0	"
	Groceries not otherwise de-			
	scribed . . . . .	...	<i>ad valorem</i>	"
	Pork hams . . . . .	lb	0 14	"
	Sago . . . . .	cwt.	8 8	"
	Shark-fins . . . . .	"	40 0	"
	Singally and sozille . . . . .	"	25 0	"
	Tapioca . . . . .	"	9 8	"
	Vinegar, European, in wood . . . . .	Imperial gallon.	1 0	"
	„ Persian . . . . .	"	1 8	"
	„ country . . . . .	"	0 6	"
	All other sorts of provisions, oilman's stores and groceries . . . . .	...	<i>ad valorem</i>	"
7	<b>SPICES—</b>			
	Betelnuts—Goa . . . . .	cwt.	17 0	"
	„ —in the husk . . . . .	thousand	2 0	"
	„ —all other sorts . . . . .		<i>ad valorem</i>	"
	Cardamoms, Ceylon . . . . .	cwt.	150 0	"
	Chillies, dry . . . . .	"	11 0	"
	Cloves . . . . .	"	20 0	"
	„ stems and heads . . . . .	"	4 0	"
	„ in seeds, narlavang . . . . .	"	8 8	"
	Ginger, dry . . . . .	cwt.	16 0	"
	Mace . . . . .	lb	1 8	"
	Nutmegs . . . . .	"	1 0	"

Nutmegs

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## Tariff.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Articles of Food and Drink</b> — <i>concl'd.</i>		<b>₹ a.</b>	
7	<b>SPICES—<i>contd.</i></b>			
	Nutmegs in shell . . . .	lb	0 8	Five per cent.
	Pepper, black . . . .	cwt.	16 0	"
	" long . . . .	"	7 0	"
	" white . . . .	"	30 0	"
	All other sorts of spices . . .	...	<i>ad valorem</i>	"
8	<b>SUGAR, China, candy . . .</b>	cwt.	20 0	"
	" loaf . . . .	"	21 0	"
	" crystallised, beet . . .	"	13 0	"
	" " and soft, from China . . . .	"	13 0	"
	" " and soft, from Mauritius . . . .	"	11 0	"
	" soft or raw, other than from Mauritius or China . . .	"	10 0	"
	" all other sorts, including saccharine produce of all kinds and confectionery .	...	<i>ad valorem</i>	"
9	<b>TEA, black . . . .</b>	lb	0 8	"
	" green . . . .	"	0 12	"
	<b>Chemicals, Drugs, Medi- cines, and Narcotics, and Dyeing and Tanning Mater- ials.</b>			
10	<b>CHEMICAL PRODUCTS AND PREPAR- ATIONS—</b>			
	Acid, sulphuric . . . .	"	0 2	"
	Alkali, country (sajji-khār) . .	cwt.	1 8	"
	Alum . . . .	"	5 0	"
	Arsenic . . . .	"	21 8	"
	" China mansul . . . .	"	17 0	"
	Bicarbonate of soda . . . .	"	7 0	"
	Copperas, green . . . .	"	3 0	"
	Explosives, namely, blasting gelatine, dynamite, roburite, tonite, and all other descrip- tions, and including deton- ators and blasting fuse . . .	...	<i>ad valorem</i>	"
	Sal ammoniac . . . .	cwt.	37 0	"
	Sulphate of copper . . . .	"	15 8	"

Sulphur

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Chemicals, Drugs, Medicines, and Narcotics, and Dyeing and Tanning Materials— <i>contd.</i>		<i>Rs a.</i>	
10	CHEMICAL PRODUCTS AND PREPARATIONS— <i>contd.</i>			
	Sulphur (brimstone), flour . . . . .	cwt.	6 0	Five per cent.
	" ( " ), roll . . . . .	"	5 12	"
	" ( " ), rough . . . . .	"	4 8	"
	All other sorts of chemical products and preparations, including saltpetre and borax . . . . .	...	<i>ad valorem</i>	"
11	DRUGS, MEDICINES, AND NARCOTICS—			
	Aloes, black . . . . .	cwt.	14 0	"
	" Socotra . . . . .	"	30 0	"
	Aloe-wood . . . . .	lb	6 0	"
	Asafoetida (hing) . . . . .	cwt.	65 0	"
	" coarse (hingra) . . . . .	"	21 0	"
	Atáry, Persian . . . . .	"	15 0	"
	Bánslochan (bamboo camphor) . . . . .	lb	0 4	"
	Brimstone (amalsára) . . . . .	cwt.	50 0	"
	Calumba or Colombo root . . . . .	"	7 0	"
	Camphor, Bhimsani (barás) . . . . .	lb	70 0	"
	" refined, cake . . . . .	"	1 4	"
	" crude, in powder . . . . .	"	0 12	"
	Cassia lignea . . . . .	cwt.	22 0	"
	China root (chobehini), rough . . . . .	"	8 0	"
	" " ( " ), scraped . . . . .	"	17 8	"
	Cubebs . . . . .	"	25 8	"
	Galanga, China . . . . .	"	7 0	"
	Pellitory (akalkára) . . . . .	"	40 0	"
	Peppermint crystals, from China and Japan . . . . .	lb	11 8	"
	Quinine and other alkaloids of chinchona . . . . .	...	...	Free.
	Salep . . . . .	cwt.	80 0	Five per cent.
	Senna leaves . . . . .	"	4 0	"
	Storax, liquid (rose melloes) . . . . .	"	54 0	"
	Tobacco, unmanufactured . . . . .	...	...	Free.
	" manufactured . . . . .	...	<i>ad valorem</i>	Five per cent.
	All other sorts of drugs, medicines, and narcotics, except opium (for which see Schedule III) . . . . .	...	"	"

12. DYEING

1894.]

## Tariff:

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Chemicals, Drugs, Medi- cines, and Narcotics, and Dyeing and Tanning Mater- ials—<i>concl.</i></b>		<i>R a.</i>	
12	<b>DYEING AND TANNING MATER- IALS—</b>			
	Alizarine dye, dry, 40 per cent.	lb	1 7	Five per cent.
	"    "    "    50    "	"	1 10	"
	"    "    "    60    "	"	1 15	"
	"    "    "    70    "	"	2 2	"
	"    "    "    80    "	"	2 8	"
	"    "    "    100   "	"	2 12	"
	"    " liquid, 10    "	"	0 5	"
	"    "    "    16    "	"	0 8	"
	"    "    "    20    "	"	0 10	"
	Aniline " " indigo blue .	"	0 9	"
	"    " dry .	"	1 8	"
	Avar bark . . . . .	cwt.	4 8	"
	Buzgand (gulpista) . . .	"	27 0	"
	Cochineal . . . . .	lb	1 2	"
	Gallnuts (myrabolams) . .	cwt.	4 0	"
	" Persian . . . . .	"	35 0	"
	Madder or Manjit . . . .	"	7 0	"
	Orchilla weed . . . . .	"	5 0	"
	Sappan wood and root . .	"	5 8	"
	All other sorts of dyeing and tanning materials . . .	...	<i>ad valorem</i>	"
	<b>Metals and Manufactures of Metals.</b>			
13	<b>HARDWARE AND CUTLERY, includ- ing ironmongery and plated- ware, and also including machines, tools, and implements to be worked by manual or animal labour, except water-lifts, sugar- mills, oil-presses, and parts thereof, and any other machines and parts of machines ordinarily used in processes of husbandry, or for the preparation for use or for sale of the products of hus- bandry which the Governor Gen- eral in Council may, by notifica- tion in the Gazette of India, exempt, all of which are free .</b>	...	<i>ad valorem</i>	"

14. MACHINERY,

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		<b>R a.</b>	
14	<p><b>MACHINEERY</b>, namely, prime-movers, and component parts thereof, including boilers and component parts thereof; also including locomotive and portable engines, steam-rollers, fire-engines and other machines in which the prime-mover is not separable from the operative parts.</p> <p>„ (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire, or other power not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts; and which are intended for—</p> <p>(a) the preparing, ginning, pressing, spinning, weaving, sewing, knitting, bleaching, and dyeing of cotton, jute, hemp, silk, wool, or other fibres and any other process intervening between the raw material and the finished product as packed ready for the market;</p> <p>(b) the smelting and milling of iron and other metallic ores and the manufacture of iron, steel, and other metals;</p> <p>(c) the manufacture of leather, sugar, indigo, silk, paper, soap, gas, oil, flour, cordage, rope, and twine;</p>	...	...	Free.

1894.]

## Tariff.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		<b>Rs a.</b>	
14	<p>MACHINERY (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire, or other power not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts; and which are intended for—(<i>contd.</i>).</p> <p>(d) the milling of rice;  (e) the manufacture of tea in all its stages, from the drying of the leaf to its packing for the market inclusive;  (f) the pulping of coffee;  (g) printing presses;  (h) foundries and workshops of iron and other metals;  (i) railway workshops;  (j) the refining of petroleum, and the manufacture of vegetable oils;  (k) the crushing of bones and bricks;  (l) the manufacture of lac;  (m) potteries;  (n) saw-mills;  (o) agriculture, mining, navigation, dredging and pumping;  (p) such other manufactures and industries as the Governor General in Council may from time to time specify:</p> <p>Provided that the term does not include tools and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the</p>	...	...	Free.

working

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		<b>₹ a.</b>	
	working of the machinery and are, owing to their shape or to other special quality, not adapted for any other purpose. <i>Note.</i> —Machinery and component parts thereof made of substances other than metal are included in this entry. MACHINERY and component parts thereof not included in the foregoing exemptions . . . .	...	<i>ad valorem</i>	Five per cent.
15	<b>METALS, unwrought and wrought, and articles made of metals—</b>			
	Brass, beads, ghungri, China . .	thousand	0 12	"
	" foil or dānkpana, white, 10½ in. × 4½ in. . .	hundred leaves.	1 4	"
	" foil or dānkpana, coloured, 10½ in. × 4½ in. . .	"	1 12	"
	" Old . . . .	cwt.	26 0	"
	" Sheets, flat or in rolls, very thin . . . .	"	100 0	"
	" wire . . . .	lb	0 7	"
	" all other sorts . . . .	...	<i>ad valorem</i>	"
	Copper, Australian . . . .	cwt.	40 0	"
	" bolt . . . .	"	50 0	"
	" brazier's and sheets . . . .	"	45 0	"
	" China cash . . . .	"	30 0	"
	" Japan . . . .	"	39 0	"
	" nails and composition nails . . . .	"	50 0	"
	" old . . . .	"	33 0	"
	" pigs and slabs . . . .	"	38 0	"
	" sheathing, plate, and raised bottoms . . . .	"	48 0	"
	" tiles, ingots, cakes, and bricks . . . .	"	40 0	"
	" China, white copper-ware . . . .	lb	1 2	"
	" foil or dānkpana, white, 10½ in. × 4½ in. . .	hundred leaves.	2 6	"

Copper,

1894.]

## Tariff.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		<b>£ a.</b>	
15	<b>METALS, unwrought and wrought, and articles made of metals—<i>contd.</i></b>			
	Copper, foil or dānkpana, col- oured, 10½ in. × 4½ in.	hundred leaves.	3 3	Five per cent.
	" wire, including wire of phosphor-bronze . . .	lb	0 9	"
	" all other sorts, unmanu- factured and manu- factured, except cur- rent coin of the Gov- ernment of India, which is free . . .	...	<i>ad valorem</i>	"
	Gold bullion and coin . . .	...	...	Free.
	Gold leaf, European . . .	hundred leaves.	3 4	Five per cent.
	Iron, anchors and cables . . .	...	<i>ad valorem</i>	One per cent.
	" angle, T, and channel . . .	ton	110 0	"
	" angle and T (if galvanised) " " (if tinned) . . .	"	160 0	"
	" bar, plate, and sheet, Low- moor . . .	ton	<i>ad valorem</i>	"
	" bar, of any kind not speci- fied in this number . . .	ton	310 0	"
	" beams, joists, pillars, gir- ders, bridge-work, and other descriptions of iron imported exclusive- ly for building purposes . . .	...	<i>ad valorem</i>	"
	" flat, square, and bolt, in- cluding Scotch . . .	ton	"	"
	" flat, square, and bolt, in- cluding Scotch (if gal- vanised) . . .	ton	94 0	"
	" flat, square, and bolt, in- cluding Scotch (if gal- vanised) . . .	"	150 0	"
	" flat, square, and bolt, in- cluding Scotch (if tinned) . . .	...	<i>ad valorem</i>	"
	" hoop, plate, and sheet, other than Swedish . . .	ton	<i>ad valorem</i>	"
	" nails, rose, wire, and flat- headed . . .	ton	122 0	"
	" nails, clasp . . .	cwt.	10 0	"
	" nails, other sorts, includ- ing galvanised . . .	"	17 0	"
	" nails, other sorts, includ- ing galvanised . . .	...	<i>ad valorem</i>	"

Iron,

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		<b>Rs a.</b>	
15	METALS, unwrought and wrought, and articles made of metals— <i>contd.</i>			
	Iron, nail-rod . . . . .	ton	104 0	One per cent.
	„ nuts and bolts . . . . .	...	<i>ad valorem</i>	„
	„ old . . . . .	cwt.	2 8	„
	„ pig . . . . .	ton	60 0	„
	„ pipes and tubes, including fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like . . . . .	...	<i>ad valorem</i>	„
	„ plate (if galvanised) . . . . .	ton	200 0	„
	„ plates, tinned . . . . .	...	<i>ad valorem</i>	„
	„ rails, chairs, and fish-plates other than those described in No. 93, also spikes (commonly known as dogspikes) . . . . .	...	„ 0	„
	„ rice bowls . . . . .	set of ten	6 0	„
	„ „ „ . . . . .	set of six	3 0	„
	„ „ „ not in sets . . . . .	...	<i>ad valorem</i>	„
	„ rivets and washers . . . . .	cwt.	10 0	„
	„ „ „ (if galvanised) . . . . .	„	15 0	„
	„ rivets and washers (if tinned) . . . . .	...	<i>ad valorem</i>	„
	„ rod, round, other than Swedish, under half an inch in diameter . . . . .	ton	105 0	„
	„ sheets and ridging, galvanised . . . . .	cwt.	10 0	„
	„ sheets and ridging, tinned . . . . .	...	<i>ad valorem</i>	„
	„ Swedish, flat, square, and bolt . . . . .	ton	142 0	„
	„ Swedish nail-rod . . . . .	„	142 0	„
	„ „ round rod, under half an inch in diameter . . . . .	„	160 0	„
	„ wire, including fencing-wire and wire-rope, but excluding wire-netting . . . . .	...	<i>ad valorem</i>	„
	„ all other sorts, including wire-netting . . . . .	...	„	Five per cent.

Lanetta

1894.]

## Tariff.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		<b>₹ a.</b>	
15	<b>METALS, unwrought and wrought, and articles made of metals—<i>contd.</i></b>			
	Lametta . . . . .	...	<i>ad valorem</i>	Five per cent.
	Lead, ore, galena . . . . .	cwt.	12 0	"
	" pig . . . . .	"	10 0	"
	" pipes . . . . .	...	<i>ad valorem</i>	"
	" sheets . . . . .	cwt.	12 0	"
	" " for tea-chests . . . . .	...	...	Free.
	Orsidue and brass leaves, European . . . . .	lb	1 0	Five per cent.
	Orsidue and brass leaves, China. . . . .	"	0 12	"
	Patent or yellow metal, sheathing sheets, and bolts . . . . .	cwt.	40 0	"
	Patent or yellow metal, sheathing sheets, and bolts, old . . . . .	"	27 0	"
	Quicksilver . . . . .	lb	1 8	"
	Shot, bird . . . . .	cwt.	16 0	"
	Silver bullion or coin, except current coin of the Government of India, which is free . . . . .	...	<i>ad valorem</i>	"
	Steel, angle, channel and spring . . . . .	...	"	One per cent.
	" bar and blooms . . . . .	...	"	"
	" basic, all sorts (other than galvanised or tinned basic steel sheets). . . . .	ton	100 0	"
	" basic, sheets (if galvanised) . . . . .	"	210 0	"
	" " (if tinned). . . . .	...	<i>ad valorem</i>	"
	" beams, joists, pillars, girders, bridgeworks, and other descriptions of steel imported exclusively for building purposes . . . . .	...	"	"
	" cast and blistered of any kind not specified in this No. . . . .	...	"	"
	" hoops . . . . .	ton	145 0	"
	" nails . . . . .	...	<i>ad valorem</i>	"
	" nuts and bolts and nail-rods . . . . .	...	"	"
	" old . . . . .	ton	60 0	"

Steel,

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>concl'd.</i></b>		<b>R a.</b>	
15	<b>METALS, unwrought and wrought, and articles made of metals— <i>concl'd.</i></b>			
	Steel, pipes and tubes . . .	...	<i>ad valorem</i>	One per cent.
	" plates and sheets . . .	ton	130 0	"
	" " " other than basic (if galvanised)	"	220 0	"
	" plates and sheets, other than basic (if tinned) .	...	<i>ad valorem</i>	"
	" rails, chairs, and fish- plates other than those described in No. 93, also spikes (commonly known as dogspikes) .	...	220 0	"
	" rivets and washers . .	ton	320 0	"
	" " " (if gal- vanised)	"	<i>ad valorem</i>	"
	" " " (if tin- ned) .	...	105 0	"
	" T-bars . . .	ton	180 0	"
	" " (if galvanised) .	"	<i>ad valorem</i>	"
	" " (if tinned) . .	...	"	"
	" wire, excluding wire- netting . . .	...	"	"
	" wire-rope . . .	...	"	"
	" all other sorts, including wire-netting . . .	...	"	Five per cent.
	Tin, block . . .	cwt.	72 0	"
	" foil, China . . .	lb	0 12	"
	" other sorts . . .	...	<i>ad valorem</i>	"
	Zinc or spelter, nails . .	cwt.	20 0	"
	" " plates and other shapes, soft . . .	"	18 0	"
	" " plates and other shapes, hard . . .	"	13 0	"
	" " sheet or sheath- ing . . .	"	19 0	"
	" " all other sorts .	...	<i>ad valorem</i>	"
	All other sorts of metals .	...	"	"
	<b>Oils.</b>			
16	<b>Oils—</b>			
	Cajeputi . . .	quart	1 4	"

Cassia

1894.]

## Tariff.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<i>Oils—contd.</i>		<i>Rs a.</i>	
	Cassia . . . . .	lb	2 8	Five per cent.
	Cocoanut . . . . .	cwt.	16 0	"
	Earthnut . . . . .	"	16 0	"
	Grass . . . . .	lb	1 12	"
	Jinjili or til . . . . .	cwt.	16 0	"
	Linseed, European . . . . .	Imperial gallon.	2 0	"
	Otto of sorts . . . . .	ounce	15 0	"
	Petroleum, including also naphtha and the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosine, paraffin oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat, or any other bituminous substance, or from any products of petroleum . . . . .	Imperial gallon.	...	One anna.
	" which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-Collector to be intended for use exclusively for the batching of jute or other fibre or for lubricating purposes	...	<i>ad valorem</i>	Five per cent.

Sandalwood

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Oils—<i>concl'd.</i></b>		<i>R a.</i>	
	Sandalwood . . . . .	lb	7 0	Five per cent.
	Whale (except spermaceti) and fish Wood . . . . .	cwt.	15 0	"
	All other sorts of oil, including paraffin wax . . . . .	"	25 0	"
		...	<i>ad valorem</i>	"
	<b>Other Articles, unmanufactured and manufactured.</b>			
17	AMBER, AND ARTICLES MADE OF AMBER, including imitation amber . . . . .	...	"	"
18	APPAREL, including drapery, haberdashery, and millinery, and military and other uniforms and accoutrements; but excluding cotton-hosiery (for which see No. 44) and boots and shoes (for which see No. 70) and excluding also uniforms and accoutrements appertaining thereto, imported by a public servant for his personal use, which are free . . . . .	...	"	"
19	ART, WORKS OF, except statuary and pictures intended to be put up in a public place, which are free . . . . .	...	"	"
20	ASBESTOS, AND ARTICLES MADE OF ASBESTOS not otherwise described . . . . .	...	"	"
21	BAGS, CASKS, BOXES, and other packages, empty, of all kinds . . . . .	...	"	"
22	BAMBOOS, common, grass, hay, rushes, straw, and leaves . . . . .	...	...	Free.
23	BEADS, of all materials except glass, for which see No. 58, and brass, for which see No. 15— Beads, China, Ankāna . . . . .	138½lb	35 0	Five per cent.

Beads,

1894.]

## Tariff.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		<i>R a.</i>	
23	BEADS, of all materials except glass, for which see No. 58, and brass, for which see No. 15— <i>contd.</i>			
	Beads, China, Dagri . . .	133½ lb	30 0	Five per cent.
	"    " Gadgadia . . .	"	24 0	"
	"    " Kamrakhi . . .	"	32 0	"
	"    " Lalhi . . .	"	44 0	"
	"    " Naksi . . .	"	38 0	"
	"    " Pakhavaji . . .	"	30 0	"
	"    " Sulemani . . .	"	34 0	"
	All other sorts . . .	...	<i>ad valorem</i>	"
24	BELTING of cotton, leather, or other material, for diving machinery . . . . .	...	"	Free.
25	BONE, INCLUDING WHALEBONE, articles made of . . . . .	...	<i>ad valorem</i>	Five per cent.
26	BOOKS, printed, including covers for printed books, maps, charts, and plans, proofs, music, and manuscripts . . . . .	...	...	Free.
27	BRISTLES AND FIBRE, for brushes and brooms . . . . .	...	...	"
28	BRUSHES AND BROOMS, all sorts . . . . .	...	<i>ad valorem</i>	Five per cent.
29	BUILDING AND ENGINEERING MATERIALS, namely, asphalt, bricks and tiles, cement of all kinds, fire-clay, earthenware piping, lime, and other kinds not otherwise described . . . . .	...	"	"
30	CABINET-WARE AND FURNITURE . . . . .	...	"	"
31	CANDLES, Paraffin . . . . .	lb	0 6	"
	" spermaceti . . . . .	"	0 7	"
	" wax . . . . .	"	1 0	"
	" all other sorts . . . . .	...	<i>ad valorem</i>	"

32. CANES

25

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>			
			R a.	
32	CANES AND RATTANS, ARTICLES MADE OF CANE OR RATTAN, AND BASKET WORK—			
	Canes, Malacca . . . .	dozen	5 0	Five per cent.
	Rattans . . . . .	cwt.	10 0	"
	All other sorts . . . .	...	<i>ad valorem</i>	"
33	CARRIAGES AND CARTS, including bicycles, tricycles, jinrikshas, Bath chairs, perambulators, trucks, wheel-barrow, and all other sorts of conveyances, and component parts thereof . . . . .	...	"	"
34	CASES (EMPTY) for spectacles, opera-glasses, jewellery, and other articles . . . . .	...	"	"
35	CELLULOID, ARTICLES MADE OF, not otherwise described . . .	...	"	"
36	CHALK, common . . . . .	...	"	"
	" French, knife and plate powder, Bath bricks, emery powder, and whitening . . . . .	...	"	"
37	CHINESE AND JAPANESE-WARE, including lacquered ware, but excluding earthenware, china, and porcelain (for which see No. 47) .	...	"	"
38	CLOCKS, WATCHES, and other time-keepers, and parts thereof . .	...	"	"
39	COAL, COKE, AND PATENT FUEL .	...	...	Free.
40	COIR, AND ARTICLES MADE OF COIR, EXCEPT CABLES AND ROPE (for which see No. 42)—			
	Yarn of all kinds . . . .	cwt.	9 0	Five per cent.
	All other sorts . . . . .	...	<i>ad valorem</i>	"

41. CORAL,

1894.]

## Tariff.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles,	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		<b>£ a.</b>	
41	CORAL, real . . . . .	...	<i>ad valorem</i>	Five per cent.
42	CORDAGE, ROPE, and Twine made of any vegetable fibre—			
	Coir, cables, tarred . . . . .	cwt.	17 0	"
	" rope . . . . .	"	10 0	"
	Cordage, hemp, European . . . . .	"	25 0	"
	" " Manila . . . . .	"	28 0	"
	Twine, sail, European . . . . .	lb	0 9	"
	All other sorts of cordage, rope, and twine . . . . .	...	<i>ad valorem</i>	"
43	CORK, AND ARTICLES MADE OF CORK—			
	Bottle corks . . . . .	gross	1 8	"
	Vial corks . . . . .	"	0 8	"
	All other sorts . . . . .	...	<i>ad valorem</i>	"
44	COTTON, AND ARTICLES MADE OF COTTON—			
	" raw . . . . .	...	...	Free.
	" twist and yarn . . . . .	...	...	"
	" Sewing thread . . . . .	...	...	"
	" Piece-goods, hosiery, and all other manufactured cotton goods not otherwise described . . . . .	...	<i>ad valorem</i>	Three and one-half per cent.
45	DISINFECTING AND DEODORISING FLUID AND POWDER . . . . .	...	"	Five per cent.
46	EARTH, COMMON CLAY, AND SAND	...	...	Free.
47	EARTHENWARE (except earthenware piping, for which see No. 29), china, china clay, porcelain, and imitation or false coral . . . . .	...	<i>ad valorem</i>	Five per cent.
48	EGGS, ostrich and other, not mounted . . . . .	...	"	"
49	EMERY PAPER AND CLOTH, AND SAND-PAPER . . . . .	...	"	"

50. FANS

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation,	Duty,
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		<i>R a.</i>	
50	FANS OF ALL KINDS, except common palm-leaf fans, which are free . . .	...	<i>ad valorem</i>	Five per cent.
51	FEATHERS, including bird-skins . . .	...	"	"
52	FIREWORKS, all sorts, including fulminating-powder . . .	...	"	"
53	FLAX, AND ARTICLES MADE OF FLAX, including linen thread . . .	...	"	"
54	FLOWERS, ARTIFICIAL, not otherwise described . . .	...	"	"
55	FURNITURE, TACKLE, AND APPAREL not otherwise described, for steam, sailing, towing and other vessels . . .	...	"	"
56	FUR, AND ARTICLES MADE OF FUR, not otherwise described . . .	...	"	"
57	GELATINE . . .	...	"	"
58	GLASS, GLASS-WARE, AND FALSE PEARLS—			
	Glass, China, all colours . . .	133½ lb	32 0	"
	" crown, coloured . . .	100 superficial feet.	15 0	"
	" " of sizes . . .	"	6 0	"
	Pearls, false, bájria . . .	lakh	3 0	"
	" " bonia . . .	thousand	0 10	"
	" " jauria . . .	lakh	6 0	"
	" " lolakh . . .	thousand	0 8	"
	" " nathia . . .	"	0 3	"
	" " táchia . . .	"	0 8	"
	" " wattanah . . .	lakh	10 0	"
	All other sorts of glass and manufactures of glass, including false pearls and glass beads . . .	...	<i>ad valorem</i>	"
59	GUMS, GUM-RESINS, and articles made of gum or gum-resin—			
	Copal . . .	cwt.	70 0	"

Cuteh

1894.]

## Tariff.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured— <i>contd.</i>		<i>Rs a.</i>	
	Gums, GUM-RESINS, and articles made of gum or gum-resin— <i>contd.</i>			
	Cutch and gambier . . .	cwt.	20 0	Five per cent.
	Gamboge . . . . .	lb	1 4	"
	Gum Ammoniac . . . .	cwt.	15 0	"
	" Arabic . . . . .	"	18 0	"
	" Bdellium (common gum) . .	"	8 0	"
	" Benjamin . . . . .	"	40 0	"
	" Bysabol (coarse myrrh) . .	"	16 0	"
	" Olibanum or frankincense . . . .	"	11 0	"
	" Persian (false) . . . .	"	11 0	"
	" Kino . . . . .	"	10 0	"
	Myrrh . . . . .	"	33 0	"
	Rosin . . . . .	"	6 0	"
	All other sorts of gums, gum-resins, and articles made of gum or gum-resin, including caoutchouc and gutta-percha .	...	<i>ad valorem</i>	"
60	HAIR of all kinds, and articles made of hair . . . . .	...	"	"
61	HEMP, including Manila hemp, and articles made therefrom (except cordage, rope, and twine, for which see No. 42) . . . . .	...	"	"
62	HIDES AND SKINS (except raw or salted hides and skins, which are free)—			
	Hides, border . . . . .	each	33 0	"
	" buffalo . . . . .	score	70 0	"
	" cow . . . . .	"	60 0	"
	Skins, including parchment and vellum, goldbeaters' skins, and all other descriptions of hides or skins . . . . .	...	<i>ad valorem</i>	"

63. HORN

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*

GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		<b>Rs a.</b>	
63	HORN . . . . .	...	...	Free.
	„ articles made of, not otherwise described . . . .	...	<i>ad valorem</i>	Five per cent.
64	INSTRUMENTS, APPARATUS, AND APPLIANCES, and parts thereof— Computing, Dental, Distilling, Diving, Drawing, Educational, Electric, Electric lighting, Galvanic, Measuring, Musical, Optical, Philosophical, Phonographic, Photographic (including materials for Photography), Scientific, Surgical, Surveying, Telegraphic, Telephonic, Typewriters, and all other sorts, except Telegraphic instruments and apparatus when imported by or under the orders of a railway company, which are free . . . . .	...	„	„
65	IVORY AND IVORY-WARE— Unmanufactured— Elephants' grinders . . . . .	cwt.	350 0	„
	Elephants' tusks (other than hollows, centres and points) each exceeding 20lb in weight, and hollows, centres and points each weighing 10lb and over	„	800 0	„
	Elephants' tusks (other than hollows, centres and points) not less than 10lb and not exceeding 20lb each, and hollows, centres and points each weighing less than 10lb . . . . .	„	680 0	„
	Elephants' tusks, each less than 10lb (other than hollows, centres and points) . . . . .	„	525 0	„
	Sea-cow or mowe teeth, each not less than 4lb . . . . .	„	200 0	„
	Sea-cow or mowe teeth, each not less than 3lb and under 4lb . . . . .	„	185 0	„

Sea-cow

1894.]

## Tariff.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured.—<i>contd.</i></b>		<i>R a.</i>	
65	<b>IVORY AND IVORY-WARE—<i>contd.</i></b> Unmanufactured— <i>contd.</i> Sea-cow or moye teeth, each less than 3lb . . . . . All other sorts, manufactured and unmanufactured . . . . .	cwt. ...	185 0 <i>ad valorem</i>	Five per cent. "
66	<b>JET, ARTICLES MADE OF . . . . .</b>	...	"	"
67	<b>JEWELLERY AND JEWELS, including plate and other manufactures of gold and silver—</b> Silverware, plain } other " embossed } than " or chased } European All other sorts, except precious stones and pearls, unset, which are free . . . . .	tola " " ...	1 0 1 4 <i>ad valorem</i>	" " "
68	<b>JUTE, raw . . . . .</b> " articles made of, except second hand or used gunny bags, which are free . . . . .	... ...	... <i>ad valorem</i>	Free. Five per cent.
69	<b>LAC, all sorts, and articles made of lac . . . . .</b>	...	"	"
70	<b>LEATHER, and articles made of leather, including boots and shoes, harness and saddlery . . . . .</b>	...	"	"
71	<b>MANURES of all kinds, including animal bones . . . . .</b>	...	...	Free.
72	<b>MARINE AND NAVAL STORES, not otherwise described . . . . .</b>	...	<i>ad valorem</i>	Five per cent.
73	<b>MATCHES, all sorts . . . . .</b>	...	"	"
74	<b>MATS AND MATTING—</b> Floor-matting, China and Singapore, of all sorts . . . . . All other sorts, except coir-matting (for which see No. 40) . . . . .	hundred ...	60 0 <i>ad valorem</i>	" "

75. MICA

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured— <i>contd.</i>		<i>R a</i>	
75	MICA AND TALC, and articles made therefrom . . . . .	...	<i>ad valorem</i>	Five per cent.
76	MINERALS NOT OTHERWISE DESCRIBED . . . . .	...	"	"
77	MODELS OF ALL DESCRIPTIONS . . . . .	...	"	"
78	MOULDEES' BLACKING AND SAND . . . . .	...	"	"
79	OILCAKE, also bran, fodder, and cattle-food of all kinds . . . . .	...	...	Free.
80	OIL-CLOTH AND FLOOR-CLOTH, including linocrusta, linoleum, and tarpaulins . . . . .	...	<i>ad valorem</i>	Five per cent.
81	PAINTS, COLOURS, PAINTERS' MATERIALS, and compositions for application to leather, wood, and metals—			
	Ochre, other than European, all colours . . . . .	cwt.	1 8	"
	Paints, composition . . . . .	"	65 0	"
	" patent driers . . . . .	"	10 0	"
	Prussian blue, China . . . . .	lb	0 8	"
	" European . . . . .	"	1 0	"
	Red lead . . . . .	cwt.	14 0	"
	Turpentine . . . . .	Imperial gallon.	2 0	"
	Verdigris . . . . .	cwt	70 0	"
	Vermilion, Canton . . . . .	box of 90 bundles.	95 0	"
	White lead . . . . .	cwt.	16 0	"
	White zinc . . . . .	"	25 0	"
	All other sorts, including glue and putty . . . . .	...	<i>ad valorem</i>	"
82	PAPER, PASTEBOARD, MILLBOARD, AND CARDBOARD of all kinds, including ruled or printed forms and account and manuscript books, labels, advertising circulars, sheet or card almanacs and calendars,			

Christmas.

1894.]

## Tariff.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff. Valuation	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		<b>£ a.</b>	
82	PAPER, PASTEBOARD, MILLBOARD, AND CARDBOARD— <i>contd.</i> Christmas, Easter, and other cards, including cards in booklet form, including also waste paper and old newspapers for packing . . . . .	...	<i>ad valorem</i>	Five per cent.
	PAPER, articles made of paper and papier-mâché . . . . .	...	"	"
83	PERFUMERY— Gowla, husked and unhusked . . . . .	cwt.	35 0	"
	Kapurkachri (zedoary, China) . . . . .	"	9 8	"
	Patch leaves (patchouli) . . . . .	"	9 8	"
	Rose-flowers, dried . . . . .	"	16 0	"
	Rose-water . . . . .	Imperial gallon.	2 0	"
	All other sorts, except perfumed spirit (for which see Schedule III) . . . . .	...	<i>ad valorem</i>	"
84	PIPES and other implements used in the consumption of tobacco and other narcotics . . . . .	...	"	"
85	PITCH, TAR AND DAMMER— Bitumen . . . . .	...	"	"
	Dammer . . . . .	cwt.	5 8	"
	Pitch, American and European . . . . .	"	7 0	"
	" coal . . . . .	"	2 8	"
	Tar, American and European . . . . .	"	6 0	"
	" coal . . . . .	"	3 0	"
	" mineral . . . . .	...	<i>ad valorem</i>	"
86	PLANTS AND BULBS, living, also dried for herbaria . . . . .	...	...	Free.
87	PLASTER OF PARIS, and articles made of plaster of Paris, not otherwise described . . . . .	...	<i>ad valorem</i>	Five per cent.

88. PLUMBAGO,

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No	Names of Articles.	Per	Tariff Valuation.	Duty
	Other Articles, unmanufactured and manufactured— <i>contd.</i>		<i>R a.</i>	
88	PLUMBAGO, and articles made of plumbago. . . . .	...	<i>ad valorem</i>	Five per cent.
89	PRECIOUS STONES AND PEARLS, unset . . . . .	...	...	Free.
90	PULP of wood, straw, rags, paper, and other materials . . . . .	...	...	"
91	PRINTING AND LITHOGRAPHING MATERIAL, namely, presses, type, ink, brass rules, composing sticks, chases, imposing tables, and lithographic stones, but not including paper . . . . .	...	...	"
92	RAGS . . . . .	...	...	"
93	RAILWAY MATERIAL for permanent-way and rolling-stock, namely, cylinders, girders and other material for bridges, rails, sleepers, bearing and fish-plates, fish-bolts, chairs, spikes, crossings, sleeper fastenings, switches, interlocking apparatus, brake gear, couplings and springs, signals, turn-tables, weigh-bridges, engines, tenders, carriages, waggons, traversers, trolleys, trucks, and component parts thereof; also cranes and water cranes and standards, wire, and other material for fencing, when imported by or under the orders of a railway company: Provided that for the purpose of this exemption "railway" means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes a railway constructed in a Native State under the suzerainty of Her			

Majesty,

1894.]

## Tariff.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation,	Duty.
	Other Articles, unmanufactured and manufactured— <i>contd.</i>		₹ a.	
93	RAILWAY MATERIAL— <i>contd.</i>			
	Majesty, and also such tramways as the Governor General in Council may, by notification in the Gazette of India, specifically include therein . . . . .	...	...	Free.
94	SEEDS—			
	Castor . . . . .	cwt.	5 0	Five per cent.
	Cummin . . . . .	"	24 0	"
	" black . . . . .	"	24 0	"
	Linseed . . . . .	"	7 8	"
	Methi . . . . .	"	4 8	"
	Mustard, rape or sarson . . . . .	"	6 0	"
	Poppy . . . . .	"	8 8	"
	Quince, bihidána . . . . .	"	60 0	"
	Sozifá . . . . .	"	24 0	"
	Til or jinjili . . . . .	"	7 0	"
	All other sorts . . . . .	...	<i>ad valorem</i>	"
95	SHELLS AND COWRIES—			
	Chanks—large shells, for cameos . . . . .	hundred	7 0	"
	" white, live . . . . .	"	8 0	"
	" " dead . . . . .	"	4 0	"
	Cowras . . . . .	"	0 10	"
	Cowries, bazar, common . . . . .	cwt.	3 8	"
	" Maldivé . . . . .	"	8 0	"
	" sankhla . . . . .	"	70 0	"
	" yellow, superior quality . . . . .	"	4 0	"
	Mother-of-pearl, nacre . . . . .	"	45 0	"
	Nakhla . . . . .	"	60 0	"
	Tortoise-shell . . . . .	lb	10 0	"
	" nakh . . . . .	"	4 0	"
	All other sorts, including articles made of shell, not otherwise described . . . . .	...	<i>ad valorem</i>	"
96	SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers, steam-launches, boats, and barges, imported entire or in sections . . . . .	...	...	Free.

97. SILK,

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured— <i>contd.</i>		₹ a.	
97	SILK, AND ARTICLES MADE OF SILK—			
	Floss . . . . .	lb	7 8	Five per cent.
	Piece-goods . . . . .	...	<i>ad valorem</i>	"
	Raw silk—			
	Cháharam, Cochin-China, and yellow Shanghai . . . . .	lb	4 8	"
	Mathow . . . . .	"	3 4	"
	Other kinds of China . . . . .	"	6 8	"
	Waste and Kachra . . . . .	"	1 4	"
	Panjam . . . . .	"	2 0	"
	Persian . . . . .	"	5 0	"
	Siam . . . . .	"	3 0	"
	Produced from the tasar or other wild worm . . . . .	"	4 0	"
	Sewing thread, China . . . . .	"	9 0	"
	All other sorts, including cocoons	...	<i>ad valorem</i>	"
98	SIZING for cotton, paper, or any other material . . . . .	...	"	"
99	SOAP . . . . .	...	"	"
100	SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE, including also antique coins and medals . . . . .	...	...	Free.
101	SPONGE AND SPONGES . . . . .	...	<i>ad valorem</i>	Five per cent.
102	STARCH . . . . .	...	"	"
103	STATIONERY, excluding paper (for which see No. 82) . . . . .	...	"	"
104	STONE AND MARBLE, and articles made of stone and marble . . . . .	...	"	"
105	STRAW PLATTING, and articles made of straw, not otherwise described . . . . .	...	"	"
106	TALLOW AND GREASE, including stearine . . . . .	cwt.	20 0	"

107. TEA-CHESTS

1894.]

## Tariff.

SCHEDULE IV.—(IMPORT ~~TARIFF~~)—*concl'd.*GENERAL DUTIES—*concl'd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured— <i>concl'd.</i>		<i>R. a.</i>	
107	TEA-CHESTS of metal or wood, whether imported entire or in sections, provided that the Customs-Collector is satisfied that they are imported for the purpose of the packing of tea for transport in bulk . . . . .	...	...	Free.
108	TEXTILE FABRICS not otherwise described . . . . .	...	<i>ad valorem</i>	Five per cent.
109	TOILET REQUISITES not otherwise described . . . . .	...	"	
110	TOYS, including toy-books, and requisites for all games . . . . .	...	"	
111	UMBRELLAS, parasols, and sunshades of all kinds . . . . .	...	"	
112	VULCANITE AND EBONITE, articles made of, not otherwise described . . . . .	...	"	
113	WALKING STICKS and sticks for umbrellas, parasols, and sunshades, of all kinds, mounted and unmounted, driving, riding, and other whips, fishing rods and lines . . . . .	...	"	
114	WAX, and articles made of wax, excluding candles (for which see No. 31) . . . . .	...	"	
115	WOOD AND TIMBER (except fire-wood, which is free), and articles made of wood not otherwise described . . . . .	...	"	
116	WOOL, raw . . . . .	...	...	Free.
	" articles made of, including felt . . . . .	...	<i>ad valorem</i>	Five per cent.
117	ALL OTHER ARTICLES, manufactured or unmanufactured, not described in this Schedule . . . . .	...	"	"

## SCHEDULE V.—

*Tariff.*

[ACT VIII, 1894.]<sup>a</sup>

[<sup>a</sup>] SCHEDULE V.—(EXPORT TARIFF.)

Name of Article.	Rate of duty.
RICE, husked or unhusked, including RICE-FLOUR, but not including RICE-BRAN and RICE-DUST, which are free.	Three annas per Indian maund of 82½ lb avoirdupois weight.

[<sup>a</sup>] See first footnote on p. 7, *supra*.

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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THE WHIPPING ACT, 1864  
(ACT NO. VI OF 1864),

AS MODIFIED UP TO THE 1<sup>ST</sup> APRIL, 1900.

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CALCUTTA :  
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.  
1900.

Price three annas and six pies.

CALCUTTA :  
GOVERNMENT OF INDIA CENTRAL PRINTING OFFICE,  
8, HASTINGS STREET.

## STATEMENT OF REPEALS AND AMENDMENTS.

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SECTIONS 8, 11 AND 12 REPEALED . . .	ACT X OF 1872;
SECTIONS 9 AND 10 REPEALED . . .	ACT XVI OF 1874;
SECTION 7 REPEALED . . .	ACT X OF 1882, SCH. I (b);
PREAMBLE, WORDS REPEALED . . .	ACT V OF 1900, s. 4;
SECTION 1, DO. . .	ACT V OF 1900, s. 4;
SECTIONS 2, 3 AND 4 SUBSTITUTED . . .	ACT III OF 1895, s. 5;
SECTION 4A ADDED . . .	ACT V OF 1900, s. 2;
SECTION 5 SUBSTITUTED . . .	Ditto s. 3;
SECTION 6 amended locally . . .	ACT XIII OF 1898, s. 4 (1) AND (3) (b);
SECTION 6 ditto . . .	REG. I OF 1895, s. 3 (1);
SECTION 6 ditto . . .	REG. V OF 1896, s. 3 AND SCH.;
SECTION 6 ditto . . .	REG. I OF 1900, s. 4 AND SCH.

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The following changes have been made in reprinting the Act:—

- (1) repealed matter has been omitted, explanatory notes being inserted;
  - (2) amendments have been inserted in their proper places, with explanatory foot-notes;
  - (3) some further foot-notes have been added for convenience of reference;
  - (4) Arabic numerals have been substituted for the Roman numerals used in the original edition to denote the section numbers;
  - (5) the number and year of Acts referred to in the text have been noted in the inner margin;
  - (6) an appendix has been added;
  - (7) the headings to the pages have been amplified.
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## EXTENSIONS.

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Act VI of 1864 was declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 3, printed, General Acts, Vol. II, to be in force in the whole of British India, except as regards the Scheduled Districts. It has been applied to the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (III of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (III of 1899); to British Baluchistan and the Agency Territories, by the British Baluchistan Laws Regulation, 1890 (I of 1890), s. 3, and the Baluchistan Agency Laws Law, s. 4 (1), respectively, printed, Baluchistan Code, Ed. 1900; to Angul and the Khondmals, by the Angul District Regulation, 1894 (I of 1894), s. 3; and (with a modification) to Upper Burma generally (except the Shan States), by the Burma Laws Act, 1898 (XIII of 1898), s. 4 (1) and Schedule I [Burma Code, Ed. 1899, p. 260]. It has been applied, save s. 6, as to which *see* Appendix *infra*, to the Shan

States [except the States of Hkamti Long and Mōng-Mit (Momeik)] by the Shan States Laws and Criminal Justice Order, 1895, Burma Code, Ed. 1899, p. 606, and to the Shan State of Mōng-Mit (Momeik) and its dependency Mōng-Lāng, by Notification No. 15, Burma Gazette, 1896, Pt. I, p. 252. Under the notification last-mentioned, all enactments then in force in Upper Burma, except those in force in the town of Mandalay only, were extended to that State.

It has also been applied to Hill-tribes to which the Kachin Hill-tribes Regulation, 1895 (I of 1895), is applied, *see* ss. 1 (3) and 3 (1); to Hill-tribes to which the Chin Hills Regulation, 1896 (V of 1896), is applied, *see* s. 3 and Schedule (for these Regulations, *see* Burma Code, Ed. 1899, pp. 381 and 410, respectively); to the Chittagong Hill Tracts, by the Chittagong Hill Tracts Regulation, 1900 (I of 1900), Gazette of India, 1900, Pt. I, p. 23.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), printed, General Acts, Vol. II, to be in force in the following Scheduled Districts, namely :—

Kumaon and Garhwal . . . . .	<i>See</i> Gazette of India, 1876, Pt. I, p. 605.
Sindh . . . . .	Ditto, 1878, Pt. I, p. 482.
The Districts of Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur, Goalpara (excluding the Eastern Dvars) and Cachar (excluding the North Cachar Hills) . . . . .	Ditto, 1878, Pt. I, p. 633.
Coorg . . . . .	Ditto, 1878, Pt. I, p. 747.
Aden . . . . .	Ditto, 1879, Pt. I, p. 434.
Jaunsar Bawar . . . . .	Ditto, 1879, Pt. I, p. 382.
The Scheduled portion of the Mirzapur District	Ditto, 1879, Pt. I, p. 383.
The District of Sylhet . . . . .	Ditto, 1879, Pt. I, p. 631.
The Scheduled Districts of the Central Provinces . . . . .	Ditto, 1879, Pt. I, p. 771.
West Jalpaiguri, the Western Dvars, the Western Hills of Darjiling, the Darjiling Tarai, and the Damson Sub-division of the Darjiling District . . . . .	Ditto, 1881, Pt. I, p. 74.
The Districts of Hazāribāgh, Lohardaga [now called the Ranchi District, <i>see</i> Calcutta Gazette, 1899, Pt. I, p. 44] and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum . . . . .	Ditto, 1881, Pt. I, p. 374.
The Porahat Estate in the Singhbhum District .	Ditto, 1897, Pt. I, p. 1059.
The Andaman and Nicobar Islands . . . . .	Ditto, 1882, Pt. I, p. 148.
The Districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan . . . . .	Ditto, 1886, Pt. I, p. 48.
The District of Lahaul . . . . .	Ditto, 1886, Pt. I, p. 301.
The North Cachar Hills in the Cachar District, and the Eastern Dvars in the Goalpara District . . . . .	Ditto, 1897, Pt. I, p. 299.
The Scheduled Districts in Ganjam and Vizagapatam . . . . .	Ditto, 1898, Pt. I, p. 870.

The Act has been declared, by notification under ss. 3 and 5A of Act XIV of 1874, to be in force in Pargana Manpur in Central India, *see* Gazette of India, 1899, Pt. II, p. 419. The powers of a Local Government have been conferred on the Agent, Governor General, Central India, and also those of a High Court for the purposes of the Act.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the North-Western Provinces Tarai, *see* Gazette of India, 1876, Pt. I, p. 505 ; to the Garo Hills, the Khasi and Jaintia Hills and the Naga Hills, *see* Gazette of India, 1897, Pt. I, p. 302 ; and to the Lushai Hills, *see* Gazette of India, 1898, Pt. II, p. 345.



# ACT NO. VI OF 1864.<sup>1</sup>

[18th February, 1864.]

## An Act to authorize the punishment of whipping in certain cases.

[As modified up to the 1st April, 1900.]

WHEREAS it is expedient that in certain cases Preamble.  
offenders should be liable\* \* \* \* \*<sup>2</sup> to the  
punishment of whipping; It is enacted as follows:—

1. In addition to the punishments described in  
XLV of 1860. section 53 of the Indian Penal Code,<sup>3</sup> offenders are  
also liable to whipping \* \* \* \* \*<sup>2</sup>.

Whipping  
added to the  
punishments  
described in  
section 53 of  
the Penal  
Code.

2. Whoever commits any of the following offences  
may be punished with whipping in lieu of any pun-  
ishment to which he may for such offence be liable  
under the Indian Penal Code,<sup>3</sup> that is to say:—  
XLV of 1860.

Offences pun-  
ishable with  
whipping in  
lieu of other  
punishment  
prescribed by  
Penal Code.

### Group A.

(1) theft, as defined in section 378 of the said  
Code;

(2) theft

<sup>1</sup> Short title, "The Whipping Act, 1864." See the Indian Short  
Titles Act, 1897 (XIV of 1897), Genl. Acts, Vol. VI.

For the Statement of Objects and Reasons, see Calcutta Gazette, 1862,  
p. 751; for Proceedings relating to the Bill, see *ibid*, Supplement, pp. 28  
and 72; Gazette of India, 1864, Supplement, pp. 28, 63 and 77.

As to punishment of whipping for certain offences in places in which  
the Punjab Frontier Crimes Regulation, 1887 (IV of 1887), is in force, see  
ss. 1 (3), 8 and 14 (2) of the Regulation, printed, Punjab Code, Ed. 1888,  
p. 393, and the Punjab Frontier Crimes Regulation, 1889 (IV of 1889),  
s. 2.

<sup>2</sup> The words "under the provisions of the Indian Penal Code" and the  
words "under the provisions of the said Code," in the preamble and s. 1,  
respectively, were repealed by s. 4 of the Whipping Act, 1900 (V of 1900).

<sup>3</sup> For Act XLV of 1860, see General Acts, Vol. I, Ed. 1898, and the  
revised edition of the Code as modified up to 1st July, 1899, published by  
the Legislative Department.

<sup>4</sup> The ss. 2, 3 and 4 here printed were substituted for the original ss. 2,  
3 and 4, by the Indian Criminal Law Amendment Act, 1895 (III of 1895),  
s. 5. Printed, General Acts, Vol. VI.

*(Section 3.)*

- (2) theft in a building, tent or vessel, as defined in section 380 of the said Code ;
- (3) theft by a clerk or servant, as defined in section 381 of the said Code ;
- (4) theft after preparation for causing death or hurt, as defined in section 382 of the said Code ;

*Group B.*

- (5) extortion by threat, as defined in section 388 of the said Code ;
- (6) putting a person in fear of accusation in order to commit extortion, as defined in section 389 of the said Code ;

*Group C.*

- (7) dishonestly receiving stolen property, as defined in section 411 of the said Code ;
- (8) dishonestly receiving property stolen in the commission of a dacoity, as defined in section 412 of the said Code ;

*Group D.*

- (9) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section ;
- (10) lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

On second  
conviction of  
offence men-  
tioned in

<sup>1</sup> 3. Whoever, having been previously convicted of any one of the offences specified in the last preceding section, shall again be convicted of the same offence or of any offence included in the

same

---

<sup>1</sup> See fourth foot-note on preceding page.

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*Whipping.*

*(Section 4.)*

same Group of offences, may be punished with whipping in lieu of or in addition to any other <sup>1</sup> punishment to which he may for such offence be liable under the Indian Penal Code.<sup>2</sup>

section 2,  
whipping  
may be added  
to other punishment.

<sup>3</sup> 4. Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, or of any offence included in the same Group of offences, may be punished with whipping in addition to any other <sup>1</sup> punishment to which he may be liable under the Indian Penal Code,<sup>2</sup> that is to say:—

Offences punishable, in case of second conviction, with whipping in addition to other punishment.

*Group A.*

- (1) giving or fabricating false evidence in such manner as to be punishable under section 193 of the Indian Penal Code<sup>2</sup>;
- (2) giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in section 194 of the said Code;
- (3) giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in section 195 of the said Code;

*Group B.*

- (4) falsely charging any person with having committed an unnatural offence, as defined in sections 211 and 377 of the said Code;

*Group C.*

- (5) assaulting or using criminal force to any woman

<sup>1</sup> By s. 391 (3) of the Code of Criminal Procedure, 1898 (V of 1898), no person shall be sentenced to whipping in addition to imprisonment when the imprisonment is for less than three months.

<sup>2</sup> For Act XLV of 1860, see General Acts, Vol. I, Ed. 1898, and the revised edition of the Code as modified up to 1st July, 1899, published by the Legislative Department.

<sup>3</sup> See fourth foot-note on p. 1, *supra*.

*Whipping.*

[ACT VI.]

*(Section 4.)*

woman with intent to outrage her modesty,  
as defined in section 354 of the said Code ;

(6) rape, as defined in section 375 of the said Code ;

(7) unnatural offences, as defined in section 377  
of the said Code ;

*Group D.*

(8) robbery or dacoity, as defined in sections  
390 and 391 of the said Code ;

(9) attempting to commit robbery, as defined in  
section 393 of the said Code ;

(10) voluntarily causing hurt in committing  
robbery, as defined in section 394 of the  
said Code ;

*Group E.*

(11) habitually receiving or dealing in stolen  
property, as defined in section 413 of the  
said Code ;

*Group F.*

(12) forgery, as defined in section 463 of the  
said Code ;

(13) forgery of a document, as defined in section  
466 of the said Code ;

(14) forgery of a document, as defined in section  
467 of the said Code ;

(15) forgery for the purpose of cheating, as  
defined in section 468 of the said Code ;

(16) forgery for the purpose of harming the  
reputation of any person, as defined in  
section 469 of the said Code ;

*Group G.*

(17) lurking house-trespass, or house-breaking,  
as defined in sections 443 and 445 of the  
said Code, in order to the committing of  
any offence punishable with whipping  
under this section ;

(18) lurking

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*Whipping.*

(Sections 4A & 5.)

- (18) lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

<sup>1</sup> 4A. Whenever any Local Government has, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declared the provisions of this section to be in force in any local area within its province, any person in that local area, who, being a member of an assembly of two or more persons, the common object of which assembly is to commit rape as defined in section 375 of the Indian Penal Code,<sup>2</sup> abets, commits or attempts to commit such offence, may be punished with whipping in addition to any other punishment to which, for such abetment, offence or attempt, he may be liable under the said Code.

Additional punishment of whipping for rape in certain cases.

<sup>3</sup> 5. Any juvenile offender who abets, commits or attempts to commit—

Juvenile offenders when punishable with whipping.

- (a) any offence which is punishable under the Indian Penal Code<sup>3</sup> otherwise than with death, or

- (b) any offence which is punishable under any other law with imprisonment,

may be punished with whipping in lieu of any other punishment to which he may for such offence, abetment or attempt be liable :

Provided that the Governor General in Council may, by notification in the Gazette of India, direct that the punishment of whipping shall not be inflicted in respect of such offences falling under clause (b) as he may think fit to specify in this behalf.

*Explanation.*

<sup>1</sup> This section was added by s. 2 of the Whipping Act, 1900 (V of 1900).

<sup>2</sup> See Vol. I of the General Acts, Ed. 1898, and the revised edition of the Code as modified up to 1st July, 1899.

<sup>3</sup> This section was substituted for s. 5 of the original Act as amended by s. 6 of Act III of 1895, by s. 3 of the Whipping Act, 1900 (V of 1900).

*Whipping.*  
(Sections 6-12.)

[ACT VI

*Explanation.*—In this section the expression “juvenile offender” means an offender whom the Court, after making such enquiry (if any) as may be deemed necessary, shall find to be under sixteen years<sup>1</sup> of age, the finding of the Court in all cases being final and conclusive.

When  
offences  
specified in  
section 4  
may be  
punished  
with whip-  
ping in  
Frontier  
Districts.

<sup>2</sup> 6. Whenever any Local Government shall by notification<sup>3</sup> in the official Gazette have declared the provisions of this section to be in force in any Frontier District or any wild tract of country within the jurisdiction of such Local Government, any person who shall in such district or tract of country after such notification as aforesaid commit any of the offences specified in section 4 of this Act, may be punished with whipping in lieu of any other punishment to which he may be liable under the Indian Penal Code.<sup>4</sup>

XLV of 1860.

7. [*Exemption of females and certain convicts.*<sup>5</sup>] *Repealed by Act X of 1882.*

8. [*Certain classes of Magistrates to be specially empowered.*] *Repealed by Act X of 1872.*

9, 10. [*Time and mode of whipping.*<sup>6</sup>] *Repealed by Act XVI of 1874.*

11, 12. [*Punishment not to be inflicted if offender not in fit state of health, nor by instalments; procedure in certain cases.*] *Repealed by Act X of 1872.*

APPENDIX.

<sup>1</sup> Cf. s. 4 (a) of the Reformatory Schools Act, 1897 (VIII of 1897), printed, General Acts, Vol. VI, where a “youthful” offender is defined to be any boy who, at the time of the conviction of the offence there referred to, is under 15 years of age.

<sup>2</sup> This s. 6 does not apply to Upper Burma, see the Burma Laws Act, 1898 (XIII of 1898), s. 4 (3), cl. (b), Burma Code, Ed. 1899, p. 262, or to hill-tribes to which the Kachin Hill-tribes Regulation, 1895 (I of 1895), is applied, see ss. 1 (3) and 3 (1), or to the hill-tribes to which the Chin Hills Regulation, 1896 (V of 1896), is applied, see s. 3 and Schedule (for these enactments, see Burma Code, Ed. 1899); or to the Chittagong Hill Tracts, see the Chittagong Hill Tracts Regulation, 1900 (I of 1900). The revised sections applicable thereto are printed in the Appendix, *infra*.

<sup>3</sup> For notification extending the provisions of the Act in Madras to the hill-tracts within the jurisdiction of the Agent to the Governor, Ganjam District, see p. 7 of the Madras List of Local Rules and Orders, Ed. 1894.

<sup>4</sup> Printed, General Acts, Vol. I, and see now the revised edition of the Code as modified up to 1st July, 1899, published by the Legislative Department.

<sup>5</sup> For provisions dealing with these exemptions, see now s. 393 of the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. VI.

<sup>6</sup> For provisions dealing with this subject, see now ss. 390 to 395 of the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. VI.

## APPENDIX.

I. Section 6 of Act VI of 1864, as in force in Upper Burma (except the Shan States), runs as follows [*see* Act XIII of 1898, s. 4 (1), and (3) (b)<sup>1</sup>]:—

- “6. (1) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the List of offences annexed hereto or of any offence which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, add to that list, shall be punishable with whipping, either in lieu of, or in addition to, any other punishment to which he may be liable.
- “ (2) The Local Government may, by notification in the Burma Gazette, suspend the operation of this section in whole or in part in any district or part of a district, and, with the previous sanction of the Governor General in Council, remove the suspension of its operation.
- “ (3) This section shall be read subject to the provisions of section 593 of the Code of Criminal Procedure, 1898.”

Offenders punishable with whipping in certain other cases.

V of 1898.

## “THE SCHEDULE.

(*See section 6, sub-section (1).*)

Section of Indian Penal Code.	Offence.
148	Rioting armed with deadly weapon.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
	392. Robbery

<sup>1</sup> Printed, Burma Code, Ed. 1899, p. 262.

“THE SCHEDULE—*contd.*”

Section of Indian Penal Code	Offence.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing, or attempting to commit, robbery, or any other person jointly concerned in such robbery.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire or explosive substance with intent to destroy a house, etc.
440	Mischief committed after preparation made for causing death or hurt, etc.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, etc.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.
506	Criminal intimidation, if threat be to cause death or grievous hurt, etc.
	Abetment of any of the foregoing offences.
	Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences.”

II. Section 6 of Act VI of 1864 as applicable to hill-tribes to which the Kachin Hill-tribes Regulation, 1895, is applied, runs as follows [*see* Reg. I of 1895, ss. 1 (3) and 3 (1)] :—

“Notwithstanding anything in the foregoing sections of this Act, a person convicted of any offence may be punished with whipping in lieu of, or in addition to, any other punishment to which he may be liable.”

III. Section

1864.]

*Whipping.*

APPENDIX—*concl'd.*

III. Section 6 of Act VI of 1864 as applicable to hill-tribes to which the Chin Hills Regulation, 1896, is applied, runs as follows [*see* Reg. V of 1896, s. 3 and Schedule] :—

“Notwithstanding anything in the foregoing sections, a person convicted of any offence may be punished with whipping in lieu of, or in addition to, any other punishment to which he may be liable.”

IV. Section 6 of Act VI of 1864 as in force in the Chittagong Hill Tracts runs as follows [*see* Reg. I of 1900] :—

“Notwithstanding anything in the foregoing section, a person convicted of any offence may be punished with whipping in lieu of, or in addition to, any other punishment.”

Whipping in lieu of or in addition to other punishment.



GOVERNMENT OF INDIA,  
LEGISLATIVE DEPARTMENT.  

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THE NORTHERN INDIA FERRIES  
ACT, 1878

(ACT XVII OF 1878);

AS MODIFIED UP TO THE 1<sup>ST</sup> JUNE, 1902.

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## STATEMENT OF REPEALS AND AMENDMENTS.

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SECTION 6, AMENDED FOR THE PUNJAB.	. ACT XX OF 1883, s. 79.
FOR THE UNITED PROVINCES OF AGRA AND OUDH . . . .	. ACT XIV OF 1883, s. 65.
FOR THE CENTRAL PROVINCES . . . .	. ACT I OF 1883, s. 44.
SECTION 12 (a) AMENDED . . . .	. REG. VII OF 1901, s. 3, AND FIRST SCHEDULE.
SECTION 13, SECOND PROVISIO, AMENDED . . . .	. ACT III OF 1886, s. 2 (2).
SECTION 15, LAST PARAGRAPH, AMENDED . . . .	. ACT III OF 1886, s. 1 (3).
SECTION 17, FIRST PARAGRAPH, AMENDED— FOR THE PUNJAB . . . .	. ACT XX OF 1883, s. 79.
FOR THE UNITED PROVINCES OF AGRA AND OUDH . . . .	. ACT XIV OF 1883, s. 65.
FOR THE CENTRAL PROVINCES . . . .	. ACT I OF 1883, s. 44.
SECTION 17 (c), AMENDED . . . .	. ACT XII OF 1891, s. 2 (2).
SECTION 7A INSERTED FOR THE PUNJAB . . . .	. ACT XX OF 1883, s. 73.
FOR THE UNITED PROVINCES OF AGRA AND OUDH . . . .	. ACT XIV OF 1883, s. 64.
FOR THE CENTRAL PROVINCES . . . .	. ACT I OF 1883, s. 43.
SECTION 8—NEW SECTION SUBSTITUTED . . . .	. ACT III OF 1886, s. 1.
SECTION 12—NEW CLAUSE (b) SUBSTITUTED . . . .	. ACT III OF 1886, s. 1 (2).
SECTION 13—NEW PARAGRAPH 1 SUBSTITUTED . . . .	. ACT III OF 1886, s. 2.
SECTION 26—NEW SECTION SUBSTITUTED . . . .	. ACT III OF 1886, s. 2 (3).
SECTION 36 REPEALED . . . .	. ACT XII OF 1891, s. 2 (1).

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In reprinting this Act the following changes have been made :—

- (1) repealed matter has been omitted, and the authority for the repeal quoted ;
- (2) amendments have been inserted in their proper places, with explanatory footnotes, and amendments which are not of general application have been mentioned as such ;
- (3) the reference to the Code of Criminal Procedure in force at the time this Act was passed has been retained, and a footnote has been inserted referring to the Code now in force ;
- (4) some further notes have been added for convenience of reference ;
- (5) the number and year of Acts referred to in the text have been noted in the outer margin ;
- (6) references to sections of the Act have been printed in figures instead of in words ; and
- (7) headings to pages have been amplified.



# THE NORTHERN INDIA FERRIES ACT, 1878 (XVII OF 1878).

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### III.—PRIVATE FERRIES

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<sup>1</sup> ACT NO. XVII OF 1878.

[9th November, 1878.]

An Act to Regulate Ferries in Northern India.

As modified up to the 1st June, 1902.

WHEREAS it is expedient to regulate ferries in the Preamble.  
Punjab, the North-Western Provinces, Oudh,<sup>2</sup> the  
Central Provinces, Assam and Ajmer and Merwára;  
It is hereby enacted as follows :—

I.—PRELIMINARY.

1. This Act may be called the Northern India Short title.  
Ferries Act, 1878.

It extends only to the territories respectively ad- Local extent.  
ministered by the Lieutenant-Governors of the Punjab<sup>3</sup>  
and the North-Western Provinces and the Chief Com-  
missioners of Oudh,<sup>4</sup> the Central Provinces, Assam and  
Ajmer and Merwára.

It shall come into force<sup>5</sup> in each of the said terri- Commence-  
tories ment.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1878, Pt. V, p. 135; for Preliminary Report of the Select Committee, see *ibid.*, p. 210; for Proceedings in Council, see *ibid.*, Supplement, pp. 286, 325, 1104 and 1194.

<sup>2</sup> Read now the United Provinces of Agra and Oudh—see the United Provinces (Designation) Act, 1902 (VII of 1902).

<sup>3</sup> In the North-West Frontier Province, this reference to territory under the administration of the Lieutenant-Governor of the Punjab is to be construed as referring to the North-West Frontier Province—see s. 6 (1) (a) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901). Punjab Code, Ed. 1902.

<sup>4</sup> Read now the Lieutenant-Governor of the United Provinces of Agra and Oudh—see the United Provinces (Designation) Act, 1902 (VII of 1902).

<sup>5</sup> The Act was brought into force in—

(1) Assam on 1st April, 1879—see Assam Gazette, 1879, Pt. I, p. 187;

(2) Central Provinces on 1st April, 1879—see Central Provinces Gazette, 1879, Pt. IA, p. 202;

(3) United Provinces of Agra and Oudh on 1st January, 1879—see North-Western Provinces and Oudh Gazette, 1878, Pt. I, p. 2035;

(4) Punjab on the 1st April, 1881—see Punjab Gazette, 1881, Pt. I, p. 189.

It was extended, with the exception of paragraphs 2 and 3 of s. 1 and ss. 2, 7A, 17 and 36, to the Province of Coorg by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874)—see Appendix to the Coorg Code, p. 170.

No notification has yet been issued bringing the Act into force in Ajmer-Merwára.

*Northern India Ferries.* [ACT XVII

(I.—Preliminary.—Sections 2-3. II.—Public Ferries.—Section 4.)

tories on such date as the<sup>1</sup> Local Government may, by notification in the<sup>2</sup> official Gazette, fix in this behalf.

Repeal.

2. On and from the date on which it comes into force in the territories respectively administered by the Lieutenant-Governor of the<sup>3</sup> North-Western Provinces and the said Chief Commissioners, Bengal Regulation VI of 1819 shall be repealed therein; but all determinations, declarations, orders and rules made, engagements entered into, and securities taken, under that Regulation, and then in force, shall be deemed to be respectively made, entered into and taken under this Act.

Interpretation-clause.

3. In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry.

II.—PUBLIC FERRIES.

Power to declare, establish, define and discontinue public ferries.

4. The<sup>1</sup> Local Government may from time to time—

(a) declare what ferries shall be deemed public ferries,<sup>4</sup> and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;

(b) take

<sup>1</sup> In the North-West Frontier Province, for "Local Government" read "Chief Commissioner of the North-West Frontier Province"—see s. 6 (1) (b) of Reg. VII of 1901. Punjab Code, Ed. 1902.

<sup>2</sup> In the North-West Frontier Province, for "Official Gazette" read Gazette of India,—see s. 6 (1) (g) of Reg. VII of 1901. Punjab Code, Ed. 1902.

<sup>3</sup> Read now the Lieutenant-Governor of the United Provinces of Agra and Oudh—see the United Provinces (Designation) Act, 1902 (VII of 1902).

<sup>4</sup> For public ferries established in:—

(1) Assam,—see Assam List of Local Rules and Orders, 1893, pp. 115 to 122;

(2) Central Provinces,—see Appendix I to the Central Provinces Code;

(3) Punjab,—see Punjab List of Local Rules and Orders, Ed. 1902, pp. 105 and 106;

(4) United Provinces of Agra and Oudh,—see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, pp. 206 to 220.

(II.—*Public Ferries.*—Section 5.)

- (b) take possession of a private ferry and declare it to be a public ferry ;
- (c) establish new public ferries<sup>1</sup> where, in its opinion, they are needed ;
- (d) define the limits of any public ferry ;
- (e) <sup>1</sup> change the course of any public ferry ; and
- (f) discontinue any public ferry which it deems unnecessary.<sup>2</sup>

Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette<sup>3</sup> :

Provided that, when a river lies between two Provinces, the powers conferred by this section shall, in respect of such river, be exercised by the Governor General in Council, by notification in the Gazette of India, and not otherwise :

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the<sup>4</sup> Commissioner of the division in which such ferry is situate, or by such other officer as the<sup>5</sup> Local Government may, from time to time, appoint by name or in virtue of his office in this behalf.

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4, shall be enquired

Claims for compensation.

<sup>1</sup> For instance of notifications under this clause—see Punjab List of Local Rules and Orders, Ed. 1902, p. 106.

<sup>2</sup> For instances of such notifications,—see Assam List of Local Rules and Orders, Ed 1893 pp 122 and 123, the North-Western Provinces and Oudh Gazette, 1891. Pt. I, p. 368, and the Punjab List of Local Rules and Orders, Ed. 1902, pp. 106, 107.

<sup>3</sup> In the North-West Frontier Province, read "Gazette of India"—see s. 6 (1) (g) of Reg. VII of 1901.

<sup>4</sup> In the North-West Frontier Province, reference to the Commissioner of the Division is to be construed as referring to the Revenue Commissioner,—see s. 6 (1) (f) of Reg. VII of 1901.

<sup>5</sup> In the North-West Frontier Province read "Chief Commissioner"—see s. 6 (1) (b) of Reg. VII of 1901.

*Northern India Ferries.* [ACT XVII  
(II.—Public Ferries.—Sections 6-7.)

enquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the <sup>1</sup> Local Government.

Superintend-  
ence of pub-  
lic ferries.

6. The immediate superintendence of every public ferry shall, except as provided in section 7 <sup>2</sup>[and section 7A], be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the <sup>1</sup> Local Government may, from time to time, appoint<sup>3</sup> by name or in virtue of his office in this behalf;

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

Management  
may be  
vested in  
municipality;

7. The <sup>1</sup> Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town;

and proceeds  
paid into  
municipal  
fund.

and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

**7A. The**

<sup>1</sup> In the North-West Frontier Province, read "Chief Commissioner"—see s. 6 (1) (b) of Reg. VII of 1901.

<sup>2</sup> The words, figure and letter "and section 7A" were inserted by s. 79 of the Punjab Districts Boards Act, 1883 (XX of 1883), for the Punjab; by s. 44 of the Central Provinces Local Self-government Act, 1883 (I of 1883), for the Central Provinces; and by s. 65 of the North-Western Provinces and Oudh Local Boards Act, 1883 (XIV of 1883), for the United Provinces of Agra and Oudh.

<sup>3</sup> For instance of such appointment—see Punjab List of Local Rules and Orders, Ed. 1902, p. 107.

1878.]

*Northern India Ferries.*

(II.—Public Ferries.—Sections 7A-8.)

7A.<sup>1</sup> [*The Local Government*]<sup>2</sup> may direct that any public ferry, wholly or partly within the area subject to the authority of a <sup>3</sup>[*district board or local board*] in any district <sup>4</sup>[*in the territories under the administration of the Lieutenant-Governor of the Punjab, shall*] be managed<sup>5</sup> by that <sup>6</sup>[*board*] and may further direct that all or any part of the proceeds from such ferry be paid into the district fund; <sup>7</sup> \* \* \* \* and thereupon such ferry shall be managed and such proceeds or part thereof shall be paid accordingly.

Management of ferries may be vested in committees and boards.

<sup>8</sup> 8. The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding

Letting ' ferry-tolls by auction.

<sup>1</sup> The section as printed applies *only* to the Punjab and the North-West Frontier Province, and was inserted by the Punjab District Boards Act, 1883 (XX of 1883), s. 78. Punjab Code, Ed. 1902. In reading this section, however, in the North-West Frontier Province, the reference to the words "Local Government" and to the territories under the administration of the Lieutenant-Governor of the Punjab, are to be construed as referring respectively to the Chief Commissioner and to the North-West Frontier Province—see s. 6 (1) (b) and (a) of Reg. VII of 1901.

Sections almost identically phrased and bearing the same number have been enacted for the Central Provinces and the United Provinces of Agra and Oudh respectively by the Central Provinces Local Self-government Act, 1883 (I of 1883), s. 43, and the North-Western Provinces and Oudh Local Boards Act, 1883 (XIV of 1883), s. 64.

The variations with which the section has been enacted for each of these Provinces are indicated in the notes below. [*The section has not been enacted for Assam, Coorg and Ajmer-Merwara.*]

<sup>2</sup> In the Central Provinces for the words "the Local Government" read "the Chief Commissioner of the Central Provinces," and in the United Provinces of Agra and Oudh read "The Lieutenant-Governor of the United Provinces of Agra and Oudh"—see the United Provinces (Designation) Act, 1902 (VII of 1902). The words as enacted for the United Provinces are "The Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh."

<sup>3</sup> In the Central Provinces for "district board or local board" read "district council or local board", and in the United Provinces of Agra and Oudh read "district board".

<sup>4</sup> In the Central Provinces for these words read "in those provinces", and in the United Provinces read "in the United Provinces of Agra and Oudh"—see the United Provinces (Designation) Act, 1902 (VII of 1902). The words as enacted for the United Provinces are "in the North-Western Provinces or Oudh, as the case may be" and omit "shall".

<sup>5</sup> For notifications vesting the management of ferries in District Boards in the Punjab, see Punjab List of Local Rules and Orders, Ed. 1902, pp. 107 and 108.

<sup>6</sup> In the Central Provinces for "board" read "council or board".

<sup>7</sup> In the Central Provinces and in the United Provinces of Agra and Oudh, read "of that district" after the words "district fund".

<sup>8</sup> S. 8 was substituted by s. 1 of the Northern India Ferries Act Amendment Act, 1886 (III of 1886).

*Northern India Ferries.*      [ACT XVII  
(II.—*Public Ferries.*—Sections 9-11.)

exceeding five years, with the approval of the <sup>1</sup>Commissioner or by public auction, or otherwise than by public auction for any term with the previous sanction of the <sup>2</sup>Local Government.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 7 or section 7A,<sup>3</sup> then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

Recovery of  
arrears from  
lessee.

9. All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate as if they were arrears of land-revenue.

Power to can-  
cel lease.

10. The <sup>2</sup>Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the <sup>2</sup>Local Government, award.

Surrender of  
lease.

11. The lessee of the tolls of a public ferry may  
surrender

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<sup>1</sup> In the North-West Frontier Province, for "Commissioner," read "Revenue Commissioner"—see s. 6 (1) (f) of Reg. VII of 1901.

<sup>2</sup> In the North-West Frontier Province, for "Local Government," read "Chief Commissioner"—see s. 6 (1) (b) of Reg. VII of 1901.

<sup>3</sup> As to the application of s. 7A, see note 1 to that section, *supra*.

<sup>4</sup> For delegation of powers under this section in Assam, see the Assam List of Local Rules and Orders, Ed. 1893, p. 115.

## (II.—Public Ferries.—Section 12.)

surrender his lease on the expiration of one month's notice in writing to the <sup>1</sup>Local Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the <sup>2</sup>Commissioner, may in each case direct.

<sup>3</sup>12. Subject to the control of the <sup>1</sup>Local Government, the <sup>2</sup>Commissioner of a division, or such other officer as the <sup>1</sup>Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules<sup>4</sup> consistent with this Act—

Power to  
make rules.

- (a) for the control and the management of all public ferries <sup>5</sup>[within such division] and for regulating the traffic at such ferries;
- <sup>6</sup>[(b) for regulating the time and manner at and in which and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted];
- (c) for compensating persons who have compounded for

<sup>1</sup> In the North-West Frontier Province, for "Local Government," read "Chief Commissioner"—see s. 6 (1) (b) of Reg. VII of 1901.

<sup>2</sup> In the North-West Frontier Province, references to a Commissioner or to a Commissioner of Division are to be construed as referring to the Revenue Commissioner, see s. 6 (1) (f) of Reg. VII of 1901.

<sup>3</sup> For delegation of powers under this section in Assam,—see the Assam List of Local Rules and Orders, Ed. 1893, p. 115.

<sup>4</sup> For rules made under the powers conferred by this section in—

(1) Assam,—see Assam List of Local Rules and Orders, Ed. 1893, pp. 123 to 147, and Assam Gazette, 1893, Pt II, p 282, and *ibid*, 1899, p. 747;

(2) the Central Provinces,—see Central Provinces List of Local Rules and Orders, Ed. 1893, pp 46 to 64,

(3) the United Provinces of Agra and Oudh,—see the North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1893, p. 220

<sup>5</sup> The words "within such division", are repealed in the North-West Frontier Province,—see s. 3 of the North-West Frontier Province Law and Justice Regulation, 1901, (VII of 1901), Punjab Code, Ed. 1902.

<sup>6</sup> Cl. (b) was substituted by s. 1 (2) of the Northern India Ferries Act Amendment Act, 1886 (III of 1886).

(II.—*Public Ferries.*—Section 12—*contd.*)

for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and

(*d*) generally to carry out the purposes of this Act;

and, when the tolls of a ferry have been let under section 8, such <sup>1</sup>Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

(*e*) for collecting the rents payable for the tolls of such ferries;

(*f*) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same, and

(*g*) in cases in which the traffic is conveyed in boats, for regulating—

(1) the number and kinds of such boats and their dimensions and equipment;

(2) the number of the crew to be kept by the lessee for each boat;

(3) the maintenance of such boats continually in good condition;

(4) the hours during which, and the intervals within which, the lessee shall be bound to ply; and

(5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The

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<sup>1</sup> In the North-West Frontier Province, references to a Commissioner or to the Commissioner of a Division are to be construed as referring to the Revenue Commissioner—see s. 6 (*I*) (*f*) of Reg. VII of 1901.

1878.]            *Northern India Ferries.*

(II.—*Public Ferries.—Sections 13-14.*)

The lessee shall make such returns of traffic as the  
<sup>1</sup>Commissioner or other officer as aforesaid may from  
time to time require.

13. <sup>2</sup>[Except with the sanction of the Magistrate  
of the district or of such other officer as the <sup>3</sup>Local  
Government may, from time to time, appoint in this  
behalf, by name or in virtue of his office, no person  
shall establish, maintain or work a ferry to or from  
any point within a distance of two miles from the  
limits of a public ferry]:

Private ferry  
not to ply  
within two  
miles of  
public ferry  
without  
sanction.

Provided that, in the case of any specified public  
ferry, the <sup>3</sup> Local Government may, by notification in  
the <sup>4</sup> official Gazette, reduce or increase <sup>5</sup> the said dis-  
tance of two miles to such extent as it thinks  
fit:

Provided also that nothing hereinbefore contained  
shall prevent persons plying between two places, one  
of which is without, and one within, the said limits,  
when the distance between such two places is not less  
than three miles, or apply to boats <sup>6</sup>[which do not  
ply for hire or] which the <sup>3</sup> Local Government ex-  
pressly exempts from the operation of this sec-  
tion.

14. Whoever uses the approach to, or landing-  
place of, a public ferry is liable to pay the toll payable  
for crossing such ferry.

Person using  
approaches,  
etc., liable to  
pay.

## 15. Tolls

<sup>1</sup> In the North-West Frontier Province, references to a Commissioner or to the Commissioner of a Division are to be construed as referring to the Revenue Commissioner—see s. 6 (1) (f) of Reg. VII of 1901.

<sup>2</sup> This paragraph was substituted by s. 2 of the Northern India Ferries Act Amendment Act, 1886 (III of 1886).

<sup>3</sup> In the North-West Frontier Province, read "Chief Commissioner"—see s. 6 (1) (b) of Reg. VII of 1901.

<sup>4</sup> In the North-West Frontier Province, for "Official Gazette," read "Gazette of India"—see s. 6 (1) (g) of Reg. VII of 1901.

<sup>5</sup> For instance of such a notification,—see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1893, p. 220.

<sup>6</sup> These words were inserted by the Northern India Ferries Act Amendment Act, 1886 (III of 1886)

*Northern India Ferries.* [ACT XVII  
(II.—Public Ferries.—Sections 15-16.)

Tolls.

<sup>1</sup>15. Tolls, according to such rates as are from time to time fixed by the <sup>2</sup>Local Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service:

Provided that the <sup>3</sup>Local Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the <sup>3</sup>[lease], shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the <sup>4</sup>Commissioner of the division or such other officer as the <sup>2</sup> Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

Table of  
tolls.

16. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the <sup>4</sup>Commissioner of the division so directs, in English, in some conspicuous place near the ferry,

and

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<sup>1</sup> So far as this section exempts from the payment of tolls, persons, animals, vehicles or other things which are exempted by s. 3 of the Indian Tolls (Army) Act, 1901 (II of 1901), it is repealed by s. 8 of that Act.

For exemptions under the proviso to s. 15 in—

(1) Assam,—*see* Assam List of Local Rules and Orders, Ed. 1898, p. 123;  
(2) Punjab,—*see* Punjab List of Local Rules and Orders, Ed. 1902, p. 109;  
(3) the United Provinces of Agra and Oudh, for both rates and exemptions,—*see* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1893, pp. 220 and 221, and North-Western Provinces and Oudh Gazette, 1897, Pt. I, p. 763;

As to rates of tolls on bicycles and tricycles,—*see* North-Western Provinces and Oudh Gazette, 1899, Pt. I, p. 691.

<sup>2</sup> In the North-West Frontier Province, read “Chief Commissioner”—*see* s. 6 (1) (b) of Reg. VII of 1901.

<sup>3</sup> The word “lease” was substituted for the word “auction” by the Northern India Ferries Act, 1886 (III of 1886), s. 1 (3).

<sup>4</sup> In the North-West Frontier Province, reference to the Commissioner of a Division is to be construed as referring to the Revenue Commissioner—*see* s. 6 (1) (f) of Reg. VII of 1901.

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.  

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THE INDIAN FATAL ACCIDENTS ACT, 1855  
(XIII OF 1855),

AS MODIFIED UP TO 1<sup>ST</sup> DECEMBER, 1903.

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CALCUTTA  
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1908

[Price Two Annas.]



# ACT NO. XIII OF 1855.<sup>1</sup>

[27th March, 1855.]

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

[As modified up to 1st December, 1903.]

**WHEREAS** no action or suit is now maintainable Preamble.  
in any Court against a person who, by his wrong-  
ful

<sup>1</sup> Short title, "The Indian Fatal Accidents Act, 1855." See the Indian Short Titles Act, 1897 (14 of 1897), Genl. Acts, Vol. VI. The Act is based on the Fatal Accidents Act, 1846 (9 & 10 Vict., c. 93).

This Act has been declared to be in force in the whole of British India except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3, Genl. Acts, Vol. II.

It has been declared in force in Upper Burma generally (except the Shan States), by the Burma Laws Act, 1898 (13 of 1898), s. 4 (1), Bur. Code, p. 260; in the Santhal Parganas, by the Santhal Parganas Settlement Regulation (3 of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3 and Schedule, Ben. Code, Vol. I.; in the Arakan Hill District, by the Arakan Hill District Laws Regulation, 1874 (9 of 1874), s. 3, Bur. Code, p. 307; and in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3, Ben. Code, Vol. I.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, to be in force in the following Scheduled Districts, namely:—

Sindh . . . . .	See Gazette of India, 1880, Pt. I, p. 672.
West Jalpaiguri . . . . .	Ditto, 1881, Pt. I, p. 74.
The Districts of Hazaribagh, Lohardaga [now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44] and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum .	Ditto, 1881, Pt. I, p. 504.
The Scheduled portion of the Mirzapur District . . . . .	Ditto, 1879, Pt. I, p. 383.
Jaunsar Bawar . . . . .	Ditto, 1879, Pt. I, p. 382.
The Scheduled Districts of the Panjab (some of these dis- tricts and portions of others now form the N. W. Frontier Province, Gazette of India, 1901, Pt. I, p. 857, and <i>ibid.</i> , 1902, Pt. I, p. 575) . . . . .	Ditto, 1881, Pt. I, p. 483.
The Scheduled Districts of the Central Provinces . . . . .	Ditto, 1879, Pt. I, p. 771.
The District of Sylhet . . . . .	Ditto, 1879, Pt. I, p. 631.

ful act, neglect or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him; It is enacted as follows :—

Suit for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.

1. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime. And it is enacted further, that every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased; and in every such action, the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct

Not more than one suit to be brought.

2. Provided always that not more than one action or suit shall be brought for, and in respect of the same subject

The Scheduled Districts in Ganjam and Vizagapatam . . .	See Gazette of India, 1898, Pt. I, p. 870.
The rest of Assam (except the North Lushai Hills) . . .	Ditto, 1897, Pt. I, p. 299.
The Porahat Estate in the Singbhum District . . .	Ditto, 1897, Pt. I, p. 1059.
It has been extended, by notification under s 5 of the last-mentioned Act, to the following Scheduled Districts, namely :—	
Kumaon and Garhwal . . .	See Gazette of India, 1876, Pt. I, p. 606.
The Tarai of the Province of Agra . . .	Ditto, 1876, Pt. I, p. 505.

subject-matter of complaint ;<sup>1</sup> \* \* \* \* \*

provided that in any such action or suit the executor, administrator or representative of the deceased may insert a claim for, and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased.

3. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

4. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject-matter, that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things, and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grand-father and grand-mother; and the word "child" shall include son and daughter, and grandson and grand-daughter, and step-son and step-daughter.

<sup>1</sup> The words "and that every such action shall be brought within twelve calendar months after the death of such deceased person," were repealed by the Indian Limitation Act, 1871 (9 of 1871). For limitation, see now the Indian Limitation Act, 1908 (9 of 1908), Sch. I, No. 21, which will come into force on the 1st January, 1909.

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THE AGRICULTURISTS' LOANS ACT, 1884  
(ACT XII OF 1884,)

AS MODIFIED UP TO THE 1<sup>ST</sup> FEBRUARY, 1903.

CALCUTTA  
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1915

[ Price Two Annas and Three Pies.]



## ACT No. XII OF 1884.<sup>1</sup>

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[24th July, 1884.]

An Act to amend and provide for the extension  
of the Northern India Takkávi Act, 1879.

[As modified up to the 15th December, 1893, and with foot-  
notes brought down to 1st February, 1903.]

**W**HEREAS it is expedient to amend the Northern Preamble.  
India Takkávi Act, 1879, and provide for its  
extension to any part of British India; It is hereby  
enacted as follows :—

**1.** (1) This Act may be called the 'Agriculturists' Short title.  
Loans Act, 1884; and

(2) It shall come into force on the first day of Commence-  
August, 1884. ment.

**2.** (1) This section and section 3 extend to the Local extent  
whole of British India.

(2) The rest of this Act extends in the first in-  
stance only to the territories respectively admin-  
istered by the Governor of Bombay in Council, the  
Lieutenant-Governors of the North-Western Pro-  
vinces and the Punjab, and the Chief Commissioners  
of Oudh, the Central Provinces, Assam and Ajmere.

(3) But any other Local Government may, from  
time to time, by notification in the official Gazette,  
extend

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1884,  
Pt. V, p. 2; for Proceedings in Council, see *ibid*, Supplement, pp. 41, 165  
and 1130.

extend the rest of this Act to the whole or any part of the territories under its administration.<sup>1</sup>

Repeal of  
Act X of  
1879, and  
sections 4  
and 5 of Act  
XV of 1880.

3. (1) On and from the day on which this Act comes into force, the Northern India Takkávi Act, X of 1879, and sections 4 and 5 of the Bombay Revenue Jurisdiction Act, 1880, shall, except as regards the recovery of advances made before this Act comes into force and of the interest thereon, be repealed.

(2) All rules made under those Acts shall be deemed to be made under this Act.

Power for  
Local Gov-  
ernment  
to make  
rules.

4. (1) The Local Government may, from time to time, with the previous sanction of the Governor General in Council, make rules<sup>2</sup> as to loans to be made to owners and occupiers of arable land for the relief of distress, the purchase of seed or cattle or any other purpose not specified in the Land Improvement Loans Act, 1883,<sup>3</sup> but connected with agricultural objects.

(2) All

<sup>1</sup> Act XII of 1884 has by notification been extended to—

The Lower Provinces of Bengal see Calcutta Gazette, 1885, Pt. I, p. 555  
The Madras Presidency . . . see Fort St George Gazette, 1886, Pt. I, p. 138.  
The Santhal Parganas . . . see Calcutta Gazette, 1885, Pt. I, p. 905.  
The Province of Coorg . . . see Coorg District Gazette, 1887, Pt. I, p. 670.

The Act has been declared in force in the whole of Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898) S 2 of the Act was previously declared in force by notification under s 5 of the Scheduled Districts Act, 1874 (XIV of 1874),—see Burma Gazette, 1896, Pt I, p 112, and under that section, ss. 4, 5 and 6 of the Act were extended there, see *ibid*, p 121

It has been declared in force in the Angul District by notification under s 3 (2) of the Angul District Regulation, 1894—see Calcutta Gazette, 1896, Pt I, p 1231

<sup>2</sup> For rules made under this power for—

(a) Assam, see Assam Gazette, 1898, Pt. II, p. 244.  
(b) Bengal, see Calcutta Gazette, 1901, Pt. I, p. 215; *ibid*, 1902, Pt. I, p. 245; *ibid*, 1904, Pt. I, p. 170.  
(c) Bombay, see Bombay List of Local Rules and Orders, Ed 1896, Vol. I, p. cxxi  
(d) Burma, see Burma Gazette, 1898, Pt. I, p. 540; *ibid*, 1900, Pt. I, p. 608; and 1901, Pt. I, p. 662.  
(e) Central Provinces, see Central Provinces Gazette, 1901, Pt. III, pp. 62, 158 and 346.  
(f) Madras [combined with rules under s. 10 of the Land Improvement Loans Act, 1883 (XIX of 1883)], see Fort St. George Gazette, 1897, Pt. I, p. 1322.  
(g) United Provinces of Agra and Oudh, see North-Western Provinces and Oudh Gazette, 1890, Pt. I, p. 185; *ibid*, 1892, Pt. I, p. 470; *ibid*, 1902, Pt. I, p. 58; *ibid*, 1897, Pt. I, p. 1062; *ibid*, 1899, Pt. I, p. 561.  
(h) Punjab, see Punjab Gazette, 1901, Pt. I, p. 827; *ibid*, 1902, Pt. I, p. 20.

<sup>3</sup> Genl. Acts, Vol. IV.

1884.]

*'Agriculturists' Loans.*

(2) All such rules shall be published in the local official Gazette.

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

Recovery of  
loans.

6. When a loan is made under this Act to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked, or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Liability of  
joint bor-  
rowers as  
among them-  
selves.

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THE

INDIAN CHRISTIAN MARRIAGE ACT, 1872  
(XV OF 1872),

AS MODIFIED UP TO THE 1<sup>ST</sup> DECEMBER, 1904.

CALCUTTA :  
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.  
1904.

[Price Ten Annas.]

CALCUTTA :  
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8, HASTINGS STREET.

## STATEMENT OF REPEALS AND AMENDMENTS.

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S. 1 REP. IN PART	.	.	.	.	.	Act XVI of 1874.
S. 68	"	.	.	.	.	, XII of 1891.
S. 4 AMENDED	.	.	.	.	.	, XII of 1891.
S. 11	"	.	.	.	.	, II of 1891.
S. 72	"	.	.	.	.	, II of 1891.
Ss 29, 30, 31, 34, 36, 37, 55 AND 78 AMENDED	.	.	.	.	.	, VI of 1886.
Ss. 79 AND 81 AMENDED	.	.	.	.	.	, VI of 1886.
S. 82 AMENDED	.	.	.	.	.	, I of 1903.
S. 86	"	.	.	.	.	, II of 1891.
SCHED. II AMENDED	.	.	.	.	.	, I of 1903.
SCHED. III	"	.	.	.	.	, XII of 1891.
S. 3, PARA. ADDED	.	.	.	.	.	, VI of 1886.
S. 10, CL. (3) ADDED TO PROVISIO	.	.	.	.	.	, II of 1891.
S. 69, PARA. ADDED	.	.	.	.	.	, II of 1891.
S. 74, " "	.	.	.	.	.	, II of 1891.
S. 6 SUBSTITUTED	.	.	.	.	.	, II of 1891.
S. 62	"	.	.	.	.	, II of 1891.
S. 66	"	.	.	.	.	, II of 1891.
S. 68	"	.	.	.	.	, II of 1891.
S. 71, CL. (2) SUBSTITUTED	.	.	.	.	.	, II of 1891.

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The following changes have been made in reprinting the Act :—

- (1) repealed matter, has been omitted, explanatory notes being inserted ;
- (2) amendments made by later Acts have been inserted in their proper places, with explanatory foot-notes ;
- (3) some further foot-notes have been added for convenience of reference ;
- (4) section-numbers occurring in the text have been printed in figures instead of in words ;
- (5) the number and year of Acts referred to in the text have been noted in the inner margin, except where both appear in the text ;
- (6) the headings to the pages have been amplified.



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# ACT No. XV OF 1872.<sup>1</sup>

[18th July, 1872.]

An Act to consolidate and amend the law relating to the solemnization in India of the marriages of Christians.

[As modified up to the 1st December, 1904]

**WHEREAS** it is expedient to consolidate and amend the law relating to the solemnization in India of the marriages of persons professing the Christian religion; It is hereby enacted as follows:— Preamble.

## PRELIMINARY.

1. This Act may be called the Indian Christian Marriage Act, 1872. Short title.

It extends to the whole of British India,<sup>2</sup> and, so far only as regards Christian subjects of Her Majesty, to the territories of Native Princes and States in alliance with Her Majesty. Extent.

[Commencement.]

<sup>1</sup> For the Statement of Objects and Reasons, see Gazette of India, 1871, Pt. V, p. 473; for Proceedings in Council, see *ibid.*, 1870, Supplement, p. 1077; *ibid.*, 1871, Supplement, pp. 1426, 1643; *ibid.*, 1872, Supplement, pp. 257, 728, 742, 805, 813 and 858. This Act is based on 14 & 15 Vict., c. 40, and 58 Geo. III, c. 84 (both Statutes relate to marriages in India and are now no longer in force), and Acts V of 1852 and V of 1865; the last two Acts were repealed by this Act.

<sup>2</sup> Act XV of 1872 has been declared in force in Upper Burma generally (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), s. 4 (1), and Sch. I, Burma Code, Ed. 1899; in the Hill District of Arakan by the Arakan Hill District Laws Regulation, 1874 (IX of 1874), s. 3; in British Baluchistan by the Baluchistan Laws Regulation, 1890 (I of 1890), s. 3 printed Baluchistan Code, Ed. 1900, and in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (III of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (III of 1899) [Bengal Code]; also by notification under s. 3 of the Scheduled Districts Act, 1874 (XIV of 1874), printed General Acts, Vol. II, in the following Scheduled Districts, namely:—the Districts of Hazaribagh, Lohardugga and Manbhoom, and Pargana Dhalbhoom and the Kolhan in the District of Singhbhum [see Gazette of India, 1881, Pt. I, p. 504]; and the North-Western Provinces Talai [see *ibid.*, 1876, Pt. I, p. 505].

The District of Lohardugga, now called the Ranchi District (see Calcutta Gazette, 1899, Pt. I, p. 44), included at this time the Palamanu District, which was separated in 1894.

*Christian Marriage.* [ACT XV  
(Preliminary.—Sections 2-3.)

[Commencement.] Rep. by the Repealing Act,  
1874 (XVI of 1874).

Enactments  
repealed.

2. The enactments specified in the fifth schedule hereto annexed are repealed, but not so as to invalidate any marriage confirmed by, or solemnized under, any such enactment.

And all appointments made, licenses granted, consents given, certificates issued, and other things duly done under any such enactment shall be deemed to be respectively made, granted, given, issued and done under this Act.

For clause xxiv of section 19 of the Court-fees Act, 1870,<sup>1</sup> the following shall be substituted:—

VII.

“xxiv, Petitions under the Indian Christian Marriage Act, 1872, sections 45 and 48.”

Interpreta-  
tion-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

“Church of England” and “Anglican” mean and apply to the Church of England as by law established;

“Church of Scotland” means the Church of Scotland as by law established;

“Church of Rome” and “Roman Catholic” mean and apply to the Church which regards the Pope of Rome as its spiritual head;

“Church” includes any chapel or other building generally used for public Christian worship;

“minor” means a person who has not completed the age of twenty-one years and who is not a widower or a widow;

“Native State” means the territories of any Native Prince or State in alliance with Her Majesty;

the expression “Christians” means persons professing the Christian religion;

and

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<sup>1</sup> For Act VII of 1870 see the revised edition, as modified up to 1st October, 1899, published by the Legislative Department.

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*Christian Marriage.*

(Part I.—*The Persons by whom Marriages may be solemnized.*—Sections 4-5.)

and the expression "Native Christians" includes the Christian descendants of Natives of India converted to Christianity, as well as such converts.

<sup>1</sup>["Registrar General of Births, Deaths and Marriages" means a Registrar General of Births, Deaths and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886.]

VI of 1886.

PART I.

THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED.

4. Every marriage between persons, one or both of whom is <sup>2</sup>[or are] a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void.

Marriages to be solemnized according to Act.

5. Marriages may be solemnized in India—

(1) by any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which he is a Minister;

Persons by whom marriages may be solemnized.

(2) by any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland;

(3) by any Minister of religion licensed under this Act to solemnize marriages;

(4) by, or in the presence of, a Marriage Registrar appointed under this Act;

(5) by

<sup>1</sup> This paragraph was added by the Births, Deaths and Marriages Registration Act, 1886 (VI of 1886), s. 30, cl. (a), printed General Acts, Vol. V.

<sup>2</sup> These words were inserted by the Repealing and Amending Act, 1891 (XII of 1891), Second Schedule.

(Part I.—The Persons by whom Marriages may be solemnized.—Sections 6-7.)

(5) by any person licensed under this Act to grant certificates of marriage between Native Christians.

Grant and revocation of licenses to solemnize marriages.

<sup>1</sup>6. The Local Government,<sup>2</sup> so far as regards the territories under its administration, and the Governor General in Council, so far as regards any Native State, may, by notification in the local official Gazette or in the Gazette of India, as the case may be, grant licenses<sup>3</sup> to Ministers of Religion to solemnize marriages within such territories and State, respectively, and may, by a like notification, revoke such licenses.

Marriage Registrars.

7. The Local Government may appoint one or more Christians, either by name or as holding any office for the time being, to be the Marriage Registrar or Marriage Registrars<sup>4</sup> for any district subject to its administration.

Senior Marriage Registrar.

Where there are more Marriage Registrars than one in any district, the Local Government shall appoint one of them to be the Senior Marriage Registrar.

Magistrate when to be

When there is only one Marriage Registrar in a district,

<sup>1</sup> This section was substituted for the original s. 6 by the Indian Christian Marriage Act (1872) Amendment Act, 1891 (II of 1891), s. 1 (1), General Acts, Vol. VI.

<sup>2</sup> For notifications in the North-Western Provinces and Oudh, under the powers conferred by ss. 6, 7, 9, 62, 82, 83 and 85, see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 42.

<sup>3</sup> As to validation of licenses granted under former Acts, see the Indian Christian Marriage Act (1872) Amendment Act, 1891 (II of 1891), s. 1 (2) and (3).

<sup>4</sup> For notifications under the powers conferred by this section in—

- (1) Ajmer-Merwara . . . see Ajmer-Merwara Local Rules and Orders, 1902, Vol. I, p. 9;
- (2) Bombay . . . . . see Bombay Local Rules and Orders, Vol. I, Ed. 1896, p. xxi;
- (3) British Baluchistan . . . see Gazette of India, 1892, Pt. II, p. 53;
- (4) Burma . . . . . see Burma Rules Manual, Ed. 1903;
- (5) Central Provinces . . . see Central Provinces List of Local Rules and Orders, Ed. 1896, p. 17;
- (6) Punjab . . . . . see Punjab List of Local Rules and Orders, Ed. 1901, p. 51;
- (7) the United Provinces of Agra and Oudh . . . see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 42.

(*Part I.—The Persons by whom Marriages may be solemnized.—Sections 8-9. Part II.—Time and Place at which Marriages may be solemnized.—Section 10.*)

district, and such Registrar is absent from such district, or ill, or when his office is temporarily vacant, the Magistrate of the district shall act as, and be, Marriage Registrar thereof during such absence, illness or temporary vacancy. Marriage Registrar.

8. The Governor General in Council may, by notification in the Gazette of India, appoint any Christian, either by name or as holding any office for the time being, to be a Marriage Registrar in respect of any district or place within the territories of any Native Prince or State in alliance with Her Majesty. Marriage Registrars in Native States.

The Governor General in Council may, by like notification, revoke any such appointment.

9. The Local Government<sup>1</sup> or (so far as regards any Native State) the Governor General in Council may grant a license to any Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians. Licensing of persons to grant certificates of marriage between Native Christians.

Any such license may be revoked by the authority by which it was granted, and every such grant or revocation shall be notified in the official Gazette.

## PART II.

### TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED.

10. Every marriage under this Act shall be solemnized between the hours of six in the morning and seven in the evening: Time for solemnizing marriage.

Provided that nothing in this section shall apply to— Exceptions.

- (1) a Clergyman of the Church of England solemnizing a marriage under a special license permitting

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<sup>1</sup> For instances of such licenses granted in Burma, see *Burma Gazette*, 1899, Pt. I, p. 284.

*(Part II.—Time and Place at which Marriages may  
be solemnized.—Section 11.)*

permitting him to do so at any hour other than between six in the morning and seven in the evening, under the hand and seal of the Anglican Bishop of the Diocese or his Commissary, or

- (2) a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he has received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is so solemnized, or from such person as the same Bishop has authorized to grant such license, <sup>1</sup>[or
- (3) a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of the Church of Scotland].

Place for  
solemnizing  
marriage.

11. No Clergyman of the Church of England shall solemnize a marriage in any place other than a church <sup>2</sup>[where worship is generally held according to the forms of the Church of England],

unless there is no [such<sup>3</sup>] church within five miles distance by the shortest road from such place, or

unless he has received a special license authorizing him to do so under the hand and seal of the Anglican Bishop of the Diocese or his Commissary.

Fee for  
special  
license.

For such special license, the Registrar of the Diocese may charge such additional fee as the said Bishop from time to time authorizes.

PART III.

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<sup>1</sup> This portion was added by the Indian Christian Marriage Act (1872) Amendment Act, 1891 (II of 1891), s. 2.

<sup>2</sup> These words were added by the Indian Christian Marriage Act (1872) Amendment Act, 1891 (II of 1891), s. 3.

<sup>3</sup> The word "such" was inserted by the Indian Christian Marriage Act (1872) Amendment Act, 1891 (II of 1891), s. 3.

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(Part III.—*Marriages solemnized by Ministers of Religion licensed under this Act.—Sections 12-14.*)

### PART III.

#### MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT.

12. Whenever a marriage is intended to be solemnized by a Minister of Religion licensed to solemnize marriages under this Act—

Notice of intended marriage.

one of the persons intending marriage shall give notice in writing, according to the form contained in the first schedule hereto annexed, or to the like effect, to the Minister of Religion whom he or she desires to solemnize the marriage, and shall state therein—

- (a) the name and surname, and the profession or condition, of each of the persons intending marriage,
- (b) the dwelling-place of each of them,
- (c) the time during which each has dwelt there, and
- (d) the church or private dwelling in which the marriage is to be solemnized :

Provided that, if either of such persons has dwelt in the place mentioned in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

13. If the persons intending marriage desire it to be solemnized in a particular church, and if the Minister of Religion to whom such notice has been delivered be entitled to officiate therein, he shall cause the notice to be affixed in some conspicuous part of such church.

Publication of such notice.

But if he is not entitled to officiate as a Minister in such church, he shall, at his option, either return the notice to the person who delivered it to him, or deliver it to some other Minister entitled to officiate therein, who shall thereupon cause the notice to be affixed as aforesaid.

Return or transfer of notice.

14. If it be intended that the marriage shall be solemnized

Notice of intended

*Christian Marriage.*

[ACT XV

*(Part III.—Marriages solemnized by Ministers of Religion licensed under this Act.—Sections 15-17.)*

marriage in  
private  
dwelling.

solemnized in a private dwelling, the Minister of Religion, on receiving the notice prescribed in section 12, shall forward it to the Marriage Registrar of the district, who shall affix the same to some conspicuous place in his own office.

Sending copy  
of notice to  
Marriage Re-  
gistrar when  
one party is  
a minor.

15. When one of the persons intending marriage is a minor, every Minister receiving such notice shall, unless within twenty-four hours after its receipt he returns the same under the provisions of section 13, send by the post or otherwise a copy of such notice to the Marriage Registrar of the district, or, if there be more than one Registrar of such district, to the Senior Marriage Registrar.

Procedure on  
receipt of  
notice.

16. The Marriage Registrar or Senior Marriage Registrar, as the case may be, on receiving any such notice, shall affix it to some conspicuous place in his own office, and the latter shall further cause a copy of the said notice to be sent to each of the other Marriage Registrars in the same district, who shall likewise publish the same in the manner above directed.

Issue of cer-  
tificate of  
notice given  
and declara-  
tion made.

17. Any Minister of Religion consenting or intending to solemnize any such marriage as aforesaid, shall, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making the declaration hereinafter required, issue under his hand a certificate of such notice having been given and of such declaration having been made:

Proviso.

Provided—

- (1) that no such certificate shall be issued until the expiration of four days after the date of the receipt of the notice by such Minister;
- (2) that no lawful impediment be shown to his satisfaction why such certificate should not issue; and
- (3) that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorized in that behalf.

18. The

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(*Part III.—Marriages solemnized by Ministers of Religion licensed under this Act.—Sections 18-21.*)

18. The certificate mentioned in section 17 shall not be issued until one of the persons intending marriage has appeared personally before the Minister and made a solemn declaration—

Declaration  
before issue  
of certificate.

(a) that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage,

and, when either or both of the parties is or are a minor or minors,

(b) that the consent or consents required by law has or have been obtained thereto, or that there is no person resident in India having authority to give such consent, as the case may be.

19. The father, if living, of any minor, or, if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, may give consent to the minor's marriage,

Consent of  
father, or  
guardian, or  
mother.

and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

20. Every person whose consent to a marriage is required under section 19 is hereby authorized to prohibit the issue of the certificate by any Minister, at any time before the issue of the same, by notice in writing to such Minister, subscribed by the person so authorized with his or her name and place of abode and position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

Power to  
prohibit by  
notice issue  
of certificate.

21. If any such notice be received by such Minister, he shall not issue his certificate and shall not solemnize the said marriage until he has examined into the matter of the said prohibition, and is satisfied that the person prohibiting the marriage has no lawful authority for such prohibition,

Procedure on  
receipt of  
notice.

or

15

*Christian Marriage.*

[ACT XV

*(Part III.—Marriages solemnized by Ministers of Religion licensed under this Act.—Sections 22-26.)*

or until the said notice is withdrawn by the person who gave it.

Issue of certificate in case of minority.

22. When either of the persons intending marriage is a minor, and the minister is not satisfied that the consent of the person whose consent to such marriage is required by section 19 has been obtained, such minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of the notice of marriage.

Issue of certificates to Native Christians.

23. When any Native Christian about to be married takes a notice of marriage to a Minister of Religion, or applies for a certificate from such Minister under section 17, such Minister shall, before issuing the certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and, if not, shall translate or cause to be translated the notice or certificate to such Native Christian into some language which he understands.

Form of certificate.

24. The certificate to be issued by such Minister shall be in the form contained in the second schedule hereto annexed, or to the like effect.

Solemnization of marriage.

25. After the issue of the certificate by the Minister, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister thinks fit to adopt:

Provided that the marriage be solemnized in the presence of at least two witnesses besides the Minister.

Certificate void if marriage not solemnized within two months.

26. Whenever a marriage is not solemnized within two months after the date of the certificate issued by such Minister as aforesaid, such certificate and all proceedings (if any) thereon shall be void,

and no person shall proceed to solemnize the said marriage until new notice has been given and a certificate thereof issued in manner aforesaid.

PART IV.

1872.]

*Christian Marriage.*

(Part IV.—Registration of Marriages solemnized  
by Ministers of Religion.—Sections 27-29.)

PART IV.

REGISTRATION OF MARRIAGES SOLEMNIZED BY MINIS-  
TERS OF RELIGION.

27. All marriages hereafter solemnized in India between persons one or both of whom professes or profess the Christian religion, except marriages solemnized under Part V or Part VI of this Act, shall be registered<sup>1</sup> in manner hereinafter prescribed.

Marriages  
when to be  
registered.

28. Every Clergyman of the Church of England shall keep a register of marriages and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act.

Registration  
of marriages  
solemnized  
by clergy-  
men of  
Church of  
England.

29. Every Clergyman of the Church of England shall send four times in every year returns in duplicate, authenticated by his signature, of the entries in the register of marriages solemnized at any place where he has any spiritual charge, to the Registrar of the Archdeaconry to which he is subject, or within the limits of which such place is situate.

Quarterly  
returns to  
Archdea-  
conry.

Such quarterly returns shall contain all the entries of marriages contained in the said register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year respectively, and shall be sent by such Clergyman within two weeks from the expiration of each of the quarters above specified.

Contents of  
returns.

The said Registrar upon receiving the said returns shall send one copy thereof to the <sup>2</sup>[Registrar General of Births, Deaths and Marriages].

30. Every

<sup>1</sup> As to the establishment of general registry offices of births, deaths and marriages, see the Births, Deaths and Marriages Registration Act, 1886 (VI of 1886), Ch. II, printed General Acts, Vol. V.

<sup>2</sup> These words were substituted for the words "Secretary to the Local Government" by the Births, Deaths and Marriages Registration Act, 1886 (VI of 1886), s. 30, cl. (b), printed General Acts, Vol. V.

*(Part IV.—Registration of Marriages solemnized by Ministers of Religion.—Sections 30-33.)*

Registration  
and returns  
of marriages  
solemnized  
by Clergy-  
men of  
Church of  
Rome.

30. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is solemnized,

and such person shall forward quarterly to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages] returns of the entries of all marriages registered by him during the three months next preceding.

Registration  
and returns  
of marriages  
solemnized  
by Clergy-  
men of  
Church of  
Scotland.

31. Every Clergyman of the Church of Scotland shall keep a register of marriages,

and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act,

and shall forward quarterly to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages], through the Senior Chaplain of the Church of Scotland, returns, similar to those prescribed in section 29, of all such marriages.

Certain  
marriages to  
be registered  
in duplicate.

32. Every marriage solemnized by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England, or of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, shall, immediately after the solemnization thereof, be registered in duplicate by the person solemnizing the same; (that is to say) in a marriage-register-book to be kept by him for that purpose, according to the form contained in the fourth schedule hereto annexed, and also in a certificate attached to the marriage-register-book as a counterfoil.

Entries of  
such mar-  
riages to be  
signed and  
attested.

33. The entry of such marriage in both the certificate and marriage-register-book shall be signed by the person solemnizing the marriage, and also by the persons married, and shall be attested by two credible

witnesses,

<sup>1</sup> These words were substituted for the words "Secretary to the Local Government" by the Births, Deaths and Marriages Registration Act, 1886 (VI of 1886), s. 30, cl. (b), printed General Acts, Vol. V, 18.

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(*Part IV.—Registration of Marriages solemnized by Ministers of Religion.—Sections 34-37.*)

witnesses, other than the person solemnizing the marriage, present at its solemnization.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage-register-book.

34. The person solemnizing the marriage shall forthwith separate the certificate from the marriage-register-book and send it, within one month from the time of the solemnization, to the Marriage Registrar of the district in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar,

Certificate to be forwarded to Marriage Registrar, copied and sent to Registrar General.

who shall cause such certificate to be copied into a book to be kept by him for that purpose,

and shall send all the certificates which he has received during the month, with such number and signature or initials added thereto as are hereinafter required, to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages].

35. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which he receives each certificate.

Copies of certificates to be entered and numbered.

36. The Marriage Registrar shall also add such last-mentioned number of the entry of the copy in the book to the certificate, with his signature or initials, and shall, at the end of every month, send the same to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages].

Registrar to add number of entry to certificate, and send to Registrar General.

37. When any marriage between Native Christians is solemnized under Part I or Part III of this Act, the person solemnizing the same shall, instead of proceeding in the manner provided by sections 28 to

Registration of marriages between Native Christians under Part I or III.

36,

<sup>1</sup> See footnote on p. 18, *supra*.

*Christian Marriage.*

[ACT XV

(*Part V.—Marriages solemnized by, or in the presence of, a Marriage Registrar.—Section 38.*)

Custody and disposal of register-book.

36, both inclusive, register the marriage in a separate register-book, and shall keep it safely until it is filled, or, if he leave the district in which he solemnized the marriage before the said book is filled, shall make over the same to the person succeeding to his duties in the said district.

Whoever has the control of the book at the time when it is filled shall send it to the Marriage Registrar of the district, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the '[Registrar General of Births, Deaths and Marriages,]' to be kept by him with the records of his office.

PART V.

MARRIAGES SOLEMNIZED BY, OR IN THE PRESENCE OF, A MARRIAGE REGISTRAR.

Notice of intended marriage before Marriage Registrar.

38. When a marriage is intended to be solemnized by, or in the presence of, a Marriage Registrar, one of the parties to such marriage shall give notice in writing, in the form contained in the first schedule hereto annexed, or to the like effect, to any Marriage Registrar of the district within which the parties have dwelt;

or, if the parties dwell in different districts, shall give the like notice to a Marriage Registrar of each district,

and shall state therein the name and surname, and the profession or condition, of each of the parties intending marriage, the dwelling-place of each of them, the time during which each has dwelt therein, and the place at which the marriage is to be solemnized :

Provided that, if either party has dwelt in the place stated in the notice for more than one month, it

may

<sup>1</sup> See footnote on p. 18, *supra*.

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*Christian Marriage.*

*(Part V.—Marriages solemnized by, or in the presence of, a Marriage Registrar.—Sections 39-41.)*

may be stated therein that he or she has dwelt there one month and upwards.

39. Every Marriage Registrar shall, on receiving any such notice, cause a copy thereof to be affixed in some conspicuous place in his office.

Publication  
of notice.

When one of the parties intending marriage is a minor, every Marriage Registrar shall, within twenty-four hours after the receipt by him of the notice of such marriage, send, by post or otherwise, a copy of such notice to each of the other Marriage Registrars (if any) in the same district, who shall likewise affix the copy in some conspicuous place in his own office.

40. The Marriage Registrar shall file all such notices and keep them with the records of his office,

Notice to be  
filed and copy  
entered in  
Marriage  
Notice Book.

and shall also forthwith enter a true copy of all such notices in a book to be furnished to him for that purpose by the Local Government, and to be called the "Marriage Notice Book";

and the Marriage Notice Book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

41. If the party by whom the notice was given requests the Marriage Registrar to issue the certificate next hereinafter mentioned, and if one of the parties intending marriage has made oath as hereinafter required, the Marriage Registrar shall issue under his hand a certificate of such notice having been given and of such oath having been made :

Certificate of  
notice given  
and oath  
made.

Provided—

that no lawful impediment be shown to his satisfaction why such certificate should not issue ;

Proviso.

that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorized in that behalf by this Act ;

that four days after the receipt of the notice have expired ; and further,

that

*Christian Marriage.*

[ACT XV

*(Part V.—Marriages solemnized by, or in the presence of, a Marriage Registrar.—Sections 42-43.)*

that where, by such oath, it appears that one of the parties intending marriage is a minor, fourteen days after the entry of such notice have expired.

Oath before  
issue of  
certificate.

42. The certificate mentioned in section 41 shall not be issued by any Marriage Registrar, until one of the parties intending marriage appears personally before such Marriage Registrar, and makes oath<sup>1</sup>—

(a) that he or she believes that there is not any impediment of kindred or affinity, or other lawful hindrance, to the said marriage, and

(b) that both the parties have, or (where they have dwelt in the districts of different Marriage Registrars) that the party making such oath has, had their, his or her usual place of abode within the district of such Marriage Registrar,

—and, where either or each of the parties is a minor,—

(c) that the consent or consents to such marriage required by law has or have been obtained thereto, or that there is no person resident in India authorized to give such consent, as the case may be.

Petition to  
High Court  
to order certi-  
ficate in less  
than fourteen  
days.

43. When one of the parties intending marriage is a minor, and both such parties are at the time resident in any of the towns of Calcutta, Madras and Bombay, and are desirous of being married in less than fourteen days after the entry of such notice as aforesaid, they may apply by petition to a Judge of the High Court, for an order upon the Marriage Registrar to whom the notice of marriage has been given, directing him to issue his certificate before the expiration of the said fourteen days required by section 41.

Order on  
petition.

And, on sufficient cause being shown, the said Judge may, in his discretion, make an order upon such Marriage Registrar, directing him to issue his certificate at any time to be mentioned in the said order

<sup>1</sup> As to meaning of "oath" see the General Clauses Act, 1897 (X of 1897), s. 3, cl. (36), General Acts, Vol. VI.

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*Christian Marriage.*

(*Part V.—Marriages solemnized by, or in the presence of, a Marriage Registrar.—Sections 44-45.*)

order before the expiration of the fourteen days so required.

And the said Marriage Registrar, on receipt of the said order, shall issue his certificate in accordance therewith.

44. The provisions of section 19 apply to every marriage under this Part, either of the parties to which is a minor ;

Consent of father or guardian.

and any person whose consent to such marriage would be required thereunder may enter a protest against the issue of the Marriage Registrar's certificate, by writing, at any time before the issue of such certificate, the word "forbidden" opposite to the entry of the notice of such intended marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her position with respect to either of the parties, by reason of which he or she is so authorized.

Protest against issue of certificate.

When such protest has been entered, no certificate shall issue until the Marriage Registrar has examined into the matter of the protest, and is satisfied that it ought not to obstruct the issue of the certificate for the said marriage, or until the protest be withdrawn by the person who entered it.

Effect of protest.

45. If any person whose consent is necessary to any marriage under this Part is of unsound mind, or if any such person (other than the father) without just cause withholds his consent to the marriage,

Petition where person whose consent is necessary is insane, or unjustly withholds consent.

the parties intending marriage may apply by petition, where the person whose consent is necessary is resident within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if he is not resident within any of the said towns, then to the District Judge :

And the said Judge of the High Court, or District Judge, as the case may be, may examine the allegations of the petition in a summary way :

Procedure on petition.

And,

*(Part V.—Marriages solemnized by, or in the presence of, a Marriage Registrar,—Sections 46-47.)*

And, if upon examination such marriage appears proper, such Judge of the High Court or District Judge, as the case may be, shall declare the marriage to be a proper marriage.

Such declaration shall be as effectual as if the person whose consent was needed had consented to the marriage;

and, if he has forbidden the issue of the Marriage Registrar's certificate, such certificate shall be issued and the like proceedings may be had under this Part in relation to the marriage as if the issue of such certificate had not been forbidden.

Petition  
when  
Marriage  
Registrar  
refuses  
certificate.

46. Whenever a Marriage Registrar refuses to issue a certificate under this Part, either of the parties intending marriage may apply by petition, where the district of such Registrar is within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if such district is not within any of the said towns, then to the District Judge.

Procedure on  
petition.

The said Judge of the High Court, or District Judge, as the case may be, may examine the allegations of the petition in a summary way, and shall decide thereon.

The decision of such Judge of the High Court or District Judge, as the case may be, shall be final, and the Marriage Registrar to whom the application for the issue of a certificate was originally made shall proceed in accordance therewith.

Petition  
when  
Marriage  
Registrar in  
Native State  
refuses  
certificate.

47. Whenever a Marriage Registrar resident in any Native State refuses to issue his certificate, either of the parties intending marriage may apply by petition to the Governor General in Council, who shall decide thereon.

Such decision shall be final, and the Marriage Registrar to whom the application was originally made shall proceed in accordance therewith.

48. Whenever

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*Christian Marriage.*

(Part V.—Marriages solemnized by, or in the presence of, a Marriage Registrar.—Section 48.)

48. Whenever a Marriage Registrar, acting under the provisions of section 44, is not satisfied that the person forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall apply by petition, where his district is within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or, if such district be not within any of the said towns, then to the District Judge.

Petition when Registrar doubts authority of person forbidding.

The said petition shall state all the circumstances of the case, and pray for the order and direction of the Court concerning the same,

Procedure on petition.

and the said Judge of the High Court or District Judge, as the case may be, shall examine into the allegations of the petition and the circumstances of the case;

and if, upon such examination, it appears that the person forbidding the issue of such certificate is not authorized by law so to do, such Judge of the High Court or District Judge, as the case may be, shall declare that the person forbidding the issue of such certificate is not authorized as aforesaid,

and thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage as if the issue had not been forbidden.

Whenever a Marriage Registrar appointed under section 8 to act within any Native State is not satisfied that the person forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall send a statement of all the circumstances of the case, together with all documents relating thereto, to the Governor General in Council.

Reference when Marriage Registrar in Native State doubts authority of person forbidding.

If it appears to the Governor General in Council that the person forbidding the issue of such certificate is not authorized by law so to do, the Governor General in Council shall declare that the person forbidding the issue of such certificate is not authorized as aforesaid,

Procedure on reference.

and

*(Part V.—Marriages solemnized by, or in the presence of, a Marriage Registrar.—Sections 49-51.)*

and thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage, as if the issue of the certificate had not been forbidden.

Liability for  
frivolous  
protest  
against  
issue of  
certificate.

49. Every person entering a protest with the Marriage Registrar, under this Part, against the issue of any certificate, on grounds which such Marriage Registrar, under section 44, or a Judge of the High Court or the District Judge, under section 45 or 46, declares to be frivolous and such as ought not to obstruct the issue of the certificate, shall be liable for the costs of all proceedings in relation thereto and for damages, to be recovered by suit by the person against whose marriage such protest was entered.

Form of cer-  
tificate.

50. The certificate to be issued by the Marriage Registrar under the provisions of section 41 shall be in the form contained in the second schedule to this Act annexed or to the like effect,

and the Local Government shall furnish to every Marriage Registrar a sufficient number of forms of certificate.

Solemniza-  
tion of mar-  
riage after  
issue of cer-  
tificate.

51. After the issue of the certificate of the Marriage Registrar,

or, where notice is required to be given under this Act to the Marriage Registrars for different districts, after the issue of the certificates of the Marriage Registrars for such districts,

marriage may, if there be no lawful impediment to the marriage of the parties described in such certificate or certificates, be solemnized between them, according to such form and ceremony as they think fit to adopt.

But every such marriage shall be solemnized in the presence of some Marriage Registrar (to whom shall be delivered such certificate or certificates as aforesaid), and of two or more credible witnesses besides the Marriage Registrar.

And

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*Christian Marriage.*

(Part V.—*Marriages solemnized by, or in the presence of, a Marriage Registrar.—Sections 52-54.*)

And in some part of the ceremony each of the parties shall declare as follows, or to the like effect:—

“I do solemnly declare that I know not of any lawful impediment why I, *A. B.*, may not be joined in matrimony to *C. D.*”

And each of the parties shall say to the other as follows or to the like effect:—“I call upon these persons here present to witness that I, *A. B.*, do take thee, *C. D.*, to be my lawful wedded wife [*or husband*].”

52. Whenever a marriage is not solemnized within two months after the copy of the notice has been entered by the Marriage Registrar, as required by section 40, the notice and the certificate, if any, issued thereupon, and all other proceedings thereupon, shall be void;

When marriage not had within two months after notice, new notice required.

and no person shall proceed to solemnize the marriage, nor shall any Marriage Registrar enter the same, until new notice has been given, and entry made, and certificate thereof given, at the time and in the manner aforesaid.

53. A Marriage Registrar before whom any marriage is solemnized under this Part may ask of the persons to be married the several particulars required to be registered touching such marriage.

Marriage Registrar may ask for particulars to be registered.

54. After the solemnization of any marriage under this Part, the Marriage Registrar present at such solemnization shall forthwith register the marriage in duplicate; that is to say, in a marriage-register-book, according to the form of the fourth schedule hereto annexed, and also in a certificate attached to the marriage-register-book as a counterfoil.

Registration of marriage solemnized under Part V.

The entry of such marriage in both the certificate and the marriage-register book shall be signed by the person by or before whom the marriage has been solemnized, if there be any such person, and by the Marriage Registrar present at such marriage, whether or not it is solemnized by him, and also by the parties

married,

*Christian Marriage.*

[ACT XV

*(Part V.—Marriages solemnized by, or in the presence of, a Marriage Registrar.—Sections 55-57.)*

married, and attested by two credible witnesses other than the Marriage Registrar and person solemnizing the marriage.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage-register-book.

Certificates to be sent monthly to Registrar General.

55. The Marriage Registrar shall forthwith separate the certificate from the marriage-register-book and send it, at the end of every month, to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages].

Custody of register-book.

The Marriage Registrar shall keep safely the said register-book until it is filled, and shall then send it to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages], to be kept by him with the records of his office.

Officers to whom Registrars in Native States shall send certificates.

56. The Marriage Registrars in Native States shall send the certificates mentioned in section 54 to such officers as the Governor General in Council from time to time, by notification in the Gazette of India, appoints in this behalf.<sup>2</sup>

Registrars to ascertain that notice and certificate are understood by Native Christians.

57. When any Native Christian about to be married gives a notice of marriage, or applies for a certificate from a Marriage Registrar, such Marriage Registrar shall ascertain whether the said Native Christian understands the English language, and, if he does not, the Marriage Registrar shall translate, or cause to be translated, such notice or certificate, or both

<sup>1</sup> These words were substituted for the words "Secretary to the Local Government" by the Births, Deaths and Marriages Registration Act, 1886 (VI of 1886), s. 30, cl. (b), printed General Acts, Vol. V.

<sup>2</sup> Cf. s. 24 (2) of the Births, Deaths and Marriages Registration Act, 1886 (VI of 1886), printed General Acts, Vol. V.

The Commissioner of Ajmer-Merwara has been appointed under this section for the Rajputana States, see Ajmer-Merwara Local Rules and Orders, 1902, p. 10; the Agent, Governor General, Central India Agency, for States in Central India, see Central India volume of Enactments in force in Native States, 1899, p. 45; the Registrar General of Births, Deaths and Marriages, Madras, for the Mysore State, see Southern India (Madras and Mysore) volume, p. 47; the First Assistant to the Resident for the Hyderabad State, see Hyderabad volume, p. 26.

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(*Part V.—Marriages solemnized by, or in the presence of, a Marriage Registrar.—Sections 58-59. Part VI.—Marriage of Native Christians.—Section 60.*)

both of them, as the case may be, to such Native Christian into a language which he understands ;

or the Marriage Registrar shall otherwise ascertain whether the Native Christian is cognizant of the purport and effect of the said notice and certificate.

58. When any Native Christian is married under the provisions of this Part, the person solemnizing the marriage shall ascertain whether such Native Christian understands the English language, and, if he does not, the person solemnizing the marriage shall, at the time of the solemnization, translate, or cause to be translated, to such Native Christian, into a language which he understands, the declarations made at such marriage in accordance with the provisions of his Act.

Native Christians to be made to understand declarations.

59. The registration of marriages between Native Christians under this Part shall be made in conformity with the rules laid down in section 37 (so far as they are applicable), and not otherwise.

Registration of marriages between Native Christians.

## PART VI.<sup>1</sup>

### MARRIAGE OF NATIVE CHRISTIANS.

60. Every marriage between Native Christians applying for a certificate shall, without the preliminary notice required under Part III, be certified under this Part, if the following conditions be fulfilled, and not otherwise :—

On what conditions marriages of Native Christians may be certified.

(1) the age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years :

(2) neither

<sup>1</sup> As to validation of past marriages solemnized under Part VI between persons of whom one only was a Native Christian, and penalty for solemnizing such marriages under Part VI in future, see the Marriages Validation Act, 1892 (II of 1892), printed General Acts, Vol. VI.

(Part VI.—*Marriage of Native Christians.*—Sections 61-62.)

(2) neither of the persons intending to be married shall have a wife or husband still living;

(3) in the presence of a person licensed under section 9, and of at least two credible witnesses other than such person, each of the parties shall say to the other—

“I call upon these persons here present to witness that I, *A. B.*, in the presence of Almighty God, and in the name of our Lord Jesus Christ, do take thee, *C. D.*, to be my lawful wedded wife [*or husband*]” or words to the like effect :

Provided that no marriage shall be certified under this Part when either of the parties intending to be married has not completed his or her eighteenth year, unless such consent as is mentioned in section 19 has been given to the intended marriage, or unless it appears that there is no person living authorized to give such consent.

Grant of certificate.

61. When, in respect to any marriage solemnized under this Part, the conditions prescribed in section 60 have been fulfilled, the person licensed as aforesaid, in whose presence the said declaration has been made, shall, on the application of either of the parties to such marriage, and on the payment of a fee of four annas, grant a certificate of the marriage.

The certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage as conclusive proof of its having been performed.

Keeping of register-book and deposit of extracts therefrom with Registrar General.

<sup>1</sup> 62. (1) Every person licensed under section 9 shall keep in English, or in the vernacular language in ordinary use in the district or State in which the marriage was solemnized, and in such form as the

Local

<sup>1</sup> This section was substituted for the original s. 62 (relating to the keeping and form of the register-book) by the Indian Christian Marriage Act (1872) Amendment Act, 1891 (II of 1891), s. 4.

1872.] *Christian Marriage.*

(Part VI.—*Marriage of Native Christians.*—Sections 63-64.)

Local Government by which he was licensed may from time to time prescribe,<sup>1</sup> a register-book of all marriages solemnized under this Part in his presence, and shall deposit in the office of the Registrar General of Births, Deaths and Marriages for the territories under the administration of the said Local Government, in such form and at such intervals as that Government may prescribe, true and duly authenticated extracts from his register-book of all entries made therein since the last of those intervals.

(2) Where the person keeping the register-book was licensed as regards a Native State by the Governor General in Council, references in sub-section (1) to the Local Government therein mentioned shall be read as references to the Local Government to whose Registrar General of Births, Deaths and Marriages certified copies of entries in registers of births and deaths are for the time being required to be sent under section 24, sub-section (2), of the Births, Deaths and Marriages Registration Act, 1886.<sup>2</sup>

VI of 1886.

63. Every person licensed under this Act to grant certificates of marriage, and keeping a marriage-register-book under section 62, shall, at all reasonable times, allow search to be made in such book, and shall, on payment of the proper fee, give a copy, certified under his hand, of an entry therein.

Searches in register-book and copies of entries.

64. The provisions of sections 62 and 63, as to the form of the register-book, depositing extracts therefrom,

Books in which marriages of Native

<sup>1</sup> For notifications issued under the powers conferred by this section in—

(1) As-sam, *see* A-sam Gazette, 1901, Pt II, p. 397.

(2) Bengal, *see* Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 594.

(3) Burma, *see* Burma Rules Manual, Ed 1903.

(4) The Central Provinces, *see* Central Provinces List of Local Rules and Orders, Ed. 1896, p. 17.

(5) Punjab, *see* Punjab List of Local Rules and Orders, Ed. 1901, p. 51.

(6) The United Provinces of Agra and Oudh, *see* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 42.

For notifications in the United Provinces of Agra and Oudh, under the powers conferred by ss. 62, 6, 7, 9, 82, 83 and 85, *see* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 42.

<sup>2</sup> General Acts, Vol. V.

*Christian Marriage.*

[ACT XV

(*Part VI.—Marriage of Native Christians.—Section 65. Part VII.—Penalties.—Section 66.*)

Christians  
under Part I  
or Part III  
are regis-  
tered.

from, allowing searches thereof, and giving copies of the entries therein, shall, *mutatis mutandis*, apply to the books kept under section 37.

Part VI not  
to apply to  
Roman  
Catholics.  
Saving of  
certain  
marriages.

65. This Part of this Act, except so much of sections 62 and 63 as are referred to in section 64, shall not apply to marriages between Roman Catholics. But nothing herein contained shall invalidate any marriage celebrated between Roman Catholics under the provisions of Part V of Act No. XXV of 1864,<sup>1</sup> previous to the twenty-third day of February, 1865.

PART VII.

PENALTIES.

False oath,  
declaration,  
notice or  
certificate  
for procur-  
ing marriage.

66. Whoever, for the purpose of procuring a marriage or license of marriage, intentionally,—

(a) where an oath or declaration is required by this Act, or by any rule or custom of a Church according to the rites and ceremonies of which a marriage is intended to be solemnized, such Church being the Church of England or of Scotland or of Rome, makes a false oath or declaration, or,

(b) where a notice or certificate is required by this Act, signs a false notice or certificate,

shall be deemed to have committed the offence punishable under section 193 of the Indian Penal Code<sup>2</sup> with imprisonment of either description for a term which may extend to three years and, at the discretion of the Court, with fine. XLV of 1860.

67. Whoever

<sup>1</sup> Act XXV of 1864 was repealed by Act V of 1865, which was repealed by this Act.

<sup>2</sup> This section was substituted for the original s. 66 by the Indian Christian Marriage Act (1872) Amendment Act, 1891 (II of 1891), General Acts, Vol. VI. s. 5.

<sup>3</sup> For Act XLV of 1860, see the revised edition, as modified up to the 1st April, 1903, published by the Legislative Department.

1872.]

*Christian Marriage.*

(Part VII.—Penalties.—Sections 67-69.)

67. Whoever forbids the issue, by a Marriage Registrar, of a certificate, by falsely representing himself to be a person whose consent to the marriage is required by law, knowing or believing such representation to be false, or not having reason to believe it to be true, shall be deemed guilty of the offence described in section 205 of the Indian Penal Code.<sup>1</sup>

Forbidding,  
by false per-  
sonation,  
issue of cer-  
tificate by  
Marriage  
Registrar.

XLV of 1860.

<sup>2</sup> 68. Whoever, not being authorized by section 5 of this Act to solemnize marriages, solemnizes or professes to solemnize in the absence of a Marriage Registrar of the district in which the ceremony takes place, a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, or (in lieu of a sentence of imprisonment for seven years or upwards) with transportation for a term of not less than seven years, and not exceeding ten years,

Solemnizing  
marriage  
without due  
authority.

or, if the offender is an European or American, with penal servitude according to the provisions of Act XXIV of 1855 <sup>3</sup> (*to substitute penal servitude for the punishment of transportation in respect of Europeans and American convicts \* \* \**)<sup>4</sup>,

and shall also be liable to fine.

69. Whoever knowingly and wilfully solemnizes a marriage between persons one or both of whom is or are a Christian or Christians, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses other than the person solemnizing the marriage, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Solemnizing  
marriage out  
of proper  
time, or  
without wit-  
nesses.

This

<sup>1</sup> For Act XLV of 1860, see the revised edition, as modified up to the 1st April, 1903, published by the Legislative Department.

<sup>2</sup> This section was substituted for the original s. 68 by Act II of 1891, s. 6.

<sup>3</sup> General Acts, Vol. I, p. 101.

<sup>4</sup> The words "and to amend the law relating to the removal of such convicts" were repealed by the Repealing and Amending Act, 1891 (XII of 1891), General Acts, Vol. VI.

Saving of marriages solemnized under special license.

This section does not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he has received the general or special license in that behalf mentioned in section 10.

<sup>1</sup> [Nor does this section apply to marriages solemnized by a Clergyman of the Church of Scotland according to the rules, rites, ceremonies and customs of the Church of Scotland.]

Solemnizing, without notice or within fourteen days after notice, marriage with minor.

70. Any Minister of Religion licensed to solemnize marriages under this Act, who, without a notice in writing, or, when one of the parties to the marriage is a minor, and the required consent of the parents or guardians to such marriage has not been obtained, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnizes a marriage under Part III, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Issuing certificate, or marrying without publication of notice ;

71. A Marriage Registrar under this Act, who commits any of the following offences :—

marrying after expiry of notice ;

(1) knowingly and willingly issues any certificate for marriage, or solemnizes any marriage, without publishing the notice of such marriage as directed by this Act ;

solemnizing marriage with minor within fourteen days without

<sup>2</sup>(2) after the expiration of two months after the copy of the notice has been entered as required by section 40 in respect of any marriage, solemnizes such marriage ;

(3) solemnizes, without any order of a competent Court authorizing him to do so, any marriage, when one of the parties is a minor, before the expiration of fourteen days after

the

<sup>1</sup> This paragraph was added by s. 7 of the Indian Christian Marriage Act (1872) Amendment Act, 1891 (II of 1891), General Acts, Vol. VI.

<sup>2</sup> This clause was substituted for the original cl. (2) by Act II of 1891, s. 8 (1).

1872.]

*Christian Marriage.*

(Part VII.—Penalties.—Sections 72-73.)

the receipt of the notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Senior Marriage Registrar of the district if there be more Marriage Registrars of the district than one, and if he himself be not the Senior Marriage Registrar ;

authority of Court, or without sending a copy of notice ;

- (4) issues any certificate the issue of which has been prohibited, as in this Act provided, by any person authorized to prohibit the issue thereof,

issuing certificate against authorized prohibition.

shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

72. Any Marriage Registrar knowingly and wilfully issuing any certificate for marriage after the expiration of <sup>1</sup>[two months] after the notice has been entered by him as aforesaid,

Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition.

or knowingly and wilfully issuing, without the order of a competent Court authorizing him so to do, any certificate for marriage, where one of the parties intending marriage is a minor, before the expiration of fourteen days after the entry of such notice, or any certificate the issue of which has been forbidden as aforesaid by any person authorized in this behalf,

Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition.

shall be deemed to have committed an offence XLV of 1860. under section 166 of the Indian Penal Code.<sup>2</sup>

73. Whoever, being authorized under this Act to solemnize a marriage,

Persons authorized to solemnize marriage (other than Clergy of Churches of England, Scotland or Rome)

and not being a Clergyman of the Church of England, solemnizing a marriage after due publication of banns, or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf,

or,

<sup>1</sup> These words were substituted for the words "three months" by s. 8 (2) of the Indian Christian Marriage Act (1872) Amendment Act, 1891 (II of 1891), General Acts, Vol. VI.

<sup>2</sup> For Act XLV of 1860, see the revised edition, as modified up to 1st April, 1908, published by the Legislative Department.

or, not being a Clergyman of the Church of Scotland, solemnizing a marriage according to the rules, rites, ceremonies and customs of that church,

or, not being a Clergyman of the Church of Rome, solemnizing a marriage according to the rites, rules, ceremonies and customs of that church,

issuing certificate, or solemnizing, without publishing notice, or after expiry of certificate ;

knowingly and wilfully issues any certificate for marriage under this Act, or solemnizes any marriage between such persons as aforesaid, without publishing, or causing to be affixed, the notice of such marriage as directed in Part III of this Act, or after the expiration of two months after the certificate has been issued by him :

issuing certificate for, or solemnizing, marriage with minor, within fourteen days after notice ;

or knowingly and wilfully issues any certificate for marriage, or solemnizes a marriage between such persons when one of the persons intending marriage is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the district :

issuing certificate authorizedly forbidden ;

or knowingly and wilfully issues any certificate the issue of which has been forbidden, under this Act, by any person authorized to forbid the issue :

solemnizing marriage authorizedly forbidden.

or knowingly and wilfully solemnizes any marriage forbidden by any person authorized to forbid the same,

shall be punished with imprisonment for a term which may extend to four years, and shall also be liable to fine.

Unlicensed person granting certificate pretending to be licensed.

74. Whoever, not being licensed to grant a certificate of marriage under Part VI of this Act, grants such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

[Whoever,

1872.]

*Christian Marriage.*

(*Part VII.—Penalties.—Sections 75-76. Part VIII.  
—Miscellaneous.—Section 77.*)

<sup>1</sup>[Whoever, being licensed to grant certificates of marriage under Part VI of this Act, without just cause refuses, or wilfully neglects or omits, to perform any of the duties imposed upon him by that Part shall be punished with fine which may extend to one hundred rupees.]

75. Whoever, by himself or another, wilfully destroys or injures any register-book or the counterfoil certificates thereof, or any part thereof, or any authenticated extract therefrom, Destroying or falsifying register-books.

or falsely makes or counterfeits any part of such register-book or counterfoil certificates,

or wilfully inserts any false entry in any such register-book or counterfoil certificate or authenticated extract,

shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

76. The prosecution for every offence punishable under this Act shall be commenced within two years after the offence is committed. Limitation of prosecutions under Act.

PART VIII.

MISCELLANEOUS.

77. Whenever any marriage has been solemnized in accordance with the provisions of sections 4 and 5, it shall not be void merely on account of any irregularity in respect of any of the following matters, namely:— What matters need not be proved in respect of marriage in accordance with Act.

(1) any statement made in regard to the dwelling of the persons married, or to the consent of any person whose consent to such marriage is required by law:

(2) the notice of the marriage:

(3) the

<sup>1</sup> This paragraph was added by s. 9 of the Indian Christian Marriage Act (1872) Amendment Act, 1891 (II of 1891), General Acts, Vol. VI.

(3) the certificate or translation thereof :

(4) the time and place at which the marriage has been solemnized :

(5) the registration of the marriage.

Correction of errors.

78. Every person charged with the duty of registering any marriage, who discovers any error in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses, correct the error, by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereto the date of such correction, and such person shall make the like marginal entry in the certificate thereof.

And every entry made under this section shall be attested by the witnesses in whose presence it was made.

And in case such certificate has been already sent to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages], such person shall make and send in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches and copies of entries.

79. Every person solemnizing a marriage under this Act, and hereby required to register the same,

and every Marriage Registrar or <sup>1</sup>[Registrar General of Births, Deaths and Marriages] having the custody for the time being of any register of marriages, or of any certificate, or duplicate or copies of certificate, under this Act,

shall, on payment of the proper fees, at all reasonable times, allow searches to be made in such register, or for such certificate, or duplicate, or copies, and give a copy under his hand of any entry in the same.

80. Every

<sup>1</sup> These words were substituted for the words "Secretary to the Local Government" and "Secretary to a Local Government" respectively by s. 30 (b) of the Births, Deaths and Marriages Registration Act, 1886 (VI of 1886), General Acts, Vol. V.

80. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any marriage-register or certificate, or duplicate, required to be kept or delivered under this Act, of any entry of a marriage in such register, or of any such certificate or duplicate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such register or certificate or duplicate, or of any entry therein, respectively, or of such copy.

Certified copy of entry in marriage-register, etc., to be evidence.

81. The<sup>1</sup>[Registrar General of Births, Deaths and Marriages] and the officers appointed under section 56 shall, at the end of every quarter in each year, select, from the certificates of marriages forwarded to them respectively during such quarter, the certificates of the marriages of which the Governor General in Council may desire that evidence shall be transmitted to England,

Sending certificates of certain marriages to Secretary of State for India.

and shall send the same certificates, signed by them respectively, to the Secretary to the Government of India in the Home Department, for the purpose of being forwarded to the Secretary of State for India and delivered to the Registrar General of Births, Deaths and Marriages<sup>2</sup>[in England]:

Provided that, in the case of the Governments of Madras and Bombay, the said certificates shall be forwarded by such Governments respectively directly to the Secretary of State for India.

82. Fees shall be chargeable under this Act for—  
receiving and publishing notices of marriages ;  
issuing<sup>3</sup> [certificates for marriage] by Marriage Registrars, and registering marriages by the same ;

Local Government to prescribe fees.

entering

<sup>1</sup> See footnote on page 38, *ante*.

<sup>2</sup> These words were added by s. 30 (d) of the Births, Deaths and Marriages Registration Act, 1836 (VI of 1836), General Acts, Vol. V.

<sup>3</sup> The words "certificate, for marriage" were substituted for the words "certificates of marriages" and "marriage certificates" in s. 82 by the Repealing and Amending Act, 1938 (I of 1903), s. 3.

*Christian Marriage.* [ACT XV  
(Part VIII.—Miscellaneous.—Section 83.)

entering protests against, or prohibitions of, the issue of <sup>1</sup>[certificates for marriage] by the said Registrars ;

searching register-books or certificates, or duplicates or copies thereof ;

giving copies of entries in the same under sections 63 and 79.

<sup>2</sup> The Local Government shall fix the amount of such fees respectively,

and may from time to time vary or remit them either generally or in special cases, as to it may seem fit.

Power to  
make rules.

83. The Local Government may make rules <sup>3</sup> in regard to the disposal of the fees mentioned in section 82, the supply of register-books, and the preparation

tion

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<sup>1</sup> See footnote 3 on page 39, *supra*

<sup>2</sup> For notifications fixing the amount of such fees in—

- (1) Ajmer-Merwara, *see* Ajmer-Merwara Local Rules and Orders, 1902, Vol. I, p. 9 ;
- (2) Assam, *see* Assam Gazette, 1901, Pt. II, p. 397 ;
- (3) Baluchistan, *see* Baluchistan Code, p. 126 ;
- (4) Bengal, *see* Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 594 ;
- (5) Bombay, *see* Bombay Local Rules and Orders, 1896, Vol. I, p. xxxii ;
- (6) Burma, *see* Burma Rules Manual, Ed. 1903 ;
- (7) Central Provinces, *see* Central Provinces Local Rules and Orders, 1896, p. 17 ;
- (8) Madras, *see* Madras Local Rules and Orders, 1898, Vol. I, p. 24 ;
- (9) Punjab (including the North-West Frontier Province), *see* Punjab List of Local Rules and Orders, 1901, p. 51 ;
- (10) United Provinces of Agra and Oudh, *see* North-Western Provinces and Oudh Local Rules and Orders, 1894, p. 42 ;

<sup>3</sup> For rules under s. 83 for—

- (1) Assam, *see* Assam Gazette, 1901, Pt. II, p. 397 ;
- (2) Baluchistan, *see* Baluchistan Code, p. 126 ;
- (3) Bengal, *see* Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 594 ;
- (4) Burma, *see* Burma Rules Manual, Ed. 1903 ;
- (5) Central Provinces, *see* Central Provinces Local Rules and Orders, 1896, p. 17 ;
- (6) Madras, *see* Madras Local Rules and Orders, 1898, Vol. I, p. 24 ;
- (7) Punjab (including North-West Frontier Province), *see* Punjab List of Local Rules and Orders, 1901, p. 51 ;
- (8) United Provinces, *see* North-Western Provinces and Oudh Local Rules and Orders, 1894, p. 42.

tion and submission of returns of marriages solemnized under this Act.

84. The powers conferred on the Local Government by sections 82 and 83 may, so far as regards Native States, be exercised by the Governor General in Council.<sup>1</sup>

Power to prescribe fees and rules for Native States.

85. The Local Government may, by notification in the official Gazette, declare who shall, in any place to which this Act applies, be deemed to be the District Judge.<sup>2</sup>

Power to declare who shall be District Judge.

86. The powers and functions given by this Act to the Governor General in Council may be delegated to and exercised by such officers as the Governor General in Council from time to time<sup>3</sup> appoints in this behalf.

Powers at delegate functions under this Act of Governor General in Council.

And

<sup>1</sup> For notification issued by the Governor General in Council for all Native States, except those which are situate within, or border on, the Presidencies of Fort St. George and Bombay, but including the territories of the Maharaja of Mysore and the Baluchistan Agency Territories, *see* the Western India volume of British Enactments in force in Native States, Ed. 1900, p. 16, and Northern India volume, Ed. 1899, p. 323, for the Baluchistan Agency Territories.

For notification as to retention of fees by Marriage Registrars in Native States situate within the limits of the Madras Presidency, *see* Southern India (Madras and Mysore) volume, 1900, p. 24.

<sup>2</sup> For District Judges under the Act appointed for—

- (1) Ajmer-Merwara, *see* Ajmer-Merwara Local Rules and Orders, 1902, p. 10;
- (2) Assam, *see* Assam Gazette, 1901, Pt. II, p. 397;
- (3) Bengal, *see* Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 594;
- (4) Bombay, *see* Bombay Local Rules and Orders, 1896, Vol. I, p. xxxii;
- (5) Central Provinces, *see* Central Provinces Local Rules and Orders, 1896, p. 17;
- (6) Punjab (including the North-West Frontier Province), *see* Punjab List of Local Rules and Orders, Ed. 1901, p. 51;
- (7) United Provinces of Agra and Oudh, *see* North-Western Provinces and Oudh Local Rules and Orders, 1894, p. 42.

<sup>3</sup> For notifications delegating powers and functions under ss. 6, 8 and 9 to (1) the Agent to the Governor General in Baluchistan, *see* Northern India volume of British Enactments in force in Native States, 1899, p. 323; (2) the Lieutenant-Governors of Bengal, the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioners of Assam and the Central Provinces, for States under those Provinces, *see* *ibid.*, p. 24; (3) the Agent, Governor General, Central India, for States under that Agency, *see* Central India volume, 1899, p. 45; (4) the Resident in Mysore for that State, *see* Southern India (Madras and Mysore) volume, p. 47; (5) the Resident at Hyderabad for the Hyderabad State, *see* Hyderabad volume, 1900, p. 24; (6) the Agent, Governor General, Rajputana, for the Rajputana States, *see* Rajputana volume, 1899, p. 29; (7) as to States under the Government of Bombay, *see* under the several Agencies in the Western India volume, Ed. 1900.

*Christian Marriage.* [ACT XV  
(Part VIII.—Miscellaneous.—Sections 87-88.)

And all such powers and functions may be exercised, as regards Native States <sup>1</sup>[situate within or bordering on] the Presidencies of Fort Saint George and Bombay, by the Governors in Council of those Presidencies respectively.

Saving of  
Consular  
marriages.

87. Nothing in this Act applies to any marriage performed by any Minister, Consul or Consular Agent between subjects of the State which he represents and according to the laws of such State.

Non-validation  
of marriages within  
prohibited  
degrees.

88. Nothing in this Act shall be deemed to validate any marriage which the personal law applicable to either of the parties forbids him or her to enter into.

SCHEDULE I.

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<sup>1</sup> These words were substituted for the words "situate within the local limits of" by s. 10 of the Indian Christian Marriage Act (1872) Amendment Act, 1891 (LI of 1891), General Acts, Vol. VI, and are to be read as if enacted when Act XV of 1872 was passed.

1872.]

*Christian Marriage.*  
(Schedule I.—Notice of Marriage.)

SCHEDULE I.

(See sections 12 and 38.)

NOTICE OF MARRIAGE.

To a Minister [or Registrar] of

I hereby give you notice that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say) :

Names.	Condition.	Rank or profession.	Age.	Welling place	Length of residence	Church, chapel or place of worship in which the marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts.
<i>James Smith.</i>	<i>Widower</i>	<i>Carpenter.</i>	<i>Of full age.</i>	<i>16, Clive Street.</i>	<i>23 days.</i>	<i>Free Church of Scotland Church, Calcutta</i>	
<i>Martha Green.</i>	<i>Spinster.</i>	<i>.....</i>	<i>Minor.</i>	<i>20, Hastings Street.</i>	<i>More than a month.</i>		

Witness my hand, this                      day of                      *seventy-two*  
(Signed) *JAMES SMITH.*

[The *italics* in this schedule are to be filled up, as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

SCHEDULE II.

ACT XV

(See sections 24 and 50.)

I,

do hereby certify that, on the \_\_\_\_\_ day of \_\_\_\_\_, notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of one of the parties (that is to say) :—

Names.	Condition.	Rank or profession.	Age	Dwelling place.	Length of residence.	Church, chapel or place of worship in which the marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts
<i>Martha Green.</i>	<i>Spinster.</i>	.....	<i>Minor.</i>	<i>20, Hastings Street.</i>	<i>More than a month.</i>	<i>Free Church of Scotland, Church, Calcutta.</i>	
<i>James Smith.</i>	<i>Widower.</i>	<i>Carpenter.</i>	<i>Of full age.</i>	<i>16, Cline Street.</i>	<i>23 days.</i>		

and that the declaration, <sup>1</sup>[or oath] required by section 17 or 41 of the Indian Christian Marriage Act, 1872, has been duly made by the said (*James Smith*). xv

**Date of notice entered**

Date of certificate given

Witness my hand, this

The issue of this certificate has not been prohibited by any person authorized to forbid the issue thereof.

day of *seventy-two.*  
(Signed)

This certificate will be void, unless the marriage is solemnized on or before  
the                      day of                      19

[The *italics* in the schedule are to be filled up, as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

### SCHEDULE III.

<sup>1</sup> These words were added by the Repealing and Amending Act, 1903 (1 of 1903), s. 3.

1872.]

*Christian Marriage.*

(Schedule III.—Form of Register of Marriages.)

SCHEDULE III.

(See sections 28 and 31.<sup>1</sup>)

FORM OF REGISTER OF MARRIAGES.

*Quarterly Returns*

of

MARRIAGES

for

The Archdeaconry of ... { *Calcutta.*  
*Madras.*  
*Bombay.*

I, ———, Registrar of the Archdeaconry of { *Calcutta,*  
*Madras,*  
*Bombay,* } do hereby  
certify that the annexed are correct copies of the originals and Official Quarterly  
Returns of Marriage within the Archdeaconry of { *Calcutta,*  
*Madras,*  
*Bombay,* } as made and  
transmitted to me for the quarter commencing the      day of      ending  
the      day of      in the year of Our Lord

[*Signature of Registrar.*]

Registrar of the Archdeaconry of { *Calcutta.*  
*Madras.*  
*Bombay.*

MARRIAGES solemnized at { *Allahabad,*  
*Barrackpore,*  
*Bareilly,*  
*Calcutta, etc., etc.*

WHEN MARRIED.			NAMES OF PARTIES.		Age.	Condition.	Rank or profes- sion.	Residence at the time of marriage.	Father's name and surname.	By banns or li- cense.	Signatures of the parties.	Signatures of two or more witnesses present.	Signature of the person solemniz- ing the marriage.
Year.	Month.	Day.	Christian.	Surname.									

<sup>1</sup> This reference was substituted for the original reference by Act XII of 1891, Second Schedule.

SCHEDULE IV.

# SCHEDULE IV.

(See sections 52 and 54.)

## MARRIAGE REGISTER BOOK.

Number.	When Married.			Names of Parties.		Age.	Condition.	Rank or profession.	Residence at the time of marriage.	Father's name and surname.
	Day.	Month.	Year.	Christian name	Surname.					
1										
				James	White	26 years	Widower	Carpenter	Agra	William White.
				Martha	Duncan	17 years	Spinster	...	Agra	John Duncan.

CERTIFICATE.

Married in the

This marriage was solemnized between us  
 { James White, } in the presence of us { John Smith }  
 { Martha Duncan, } { John Green }

Christian Marriage.  
 (Schedule IV.—Marriage Register Book.)

[ACT XV

1872.]

## Christian Marriage.

(Schedule IV.—Certificate of Marriage.)

## CERTIFICATE OF MARRIAGE.

Number.	When Married.	NAMES OF PARTIES.		Age	Condition.	Rank or profession.	Residence at the time of marriage.	Father's name and surname.
		Christian name.	Surname.					
	Day. Month. Year.							
		James	White	26 years	Widower	Carpenter.	Agra	William White.
		Martha	Duncan	17 years	Spinster	...	Agra	John Duncan.

Married in the

This marriage was solemnized between us { James White, } in the presence of us { John Smith }  
 { Martha Duncan, } { John Green }

SCHEDULE V.

*Christian Marriage.* [ACT XV, 1872.]  
(Schedule V.—Enactments repealed.)

SCHEDULE V.

(See section 2.)

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of Repeal.
Statute 58 Geo. 3, cap. 84.	An Act to remove Doubts as to the Validity of certain marriages had and solemnized within the British territories in India.	The whole.
Statute 14 & 15 Vict., cap. 40.	An Act for Marriages in India	The whole.
Act No. V of 1852	An Act for giving effect to the provisions of an Act of Parliament, passed in the 15th year of the reign of Her present Majesty, intituled "An Act for Marriages in India."	So much as has not been repealed.
Act No. V of 1865	The Indian Marriage Act, 1865	The whole Act, except so far as it relates to the Straits Settlements.
Act No. XXII of 1866.	An Act to extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimulgerry and Aurungabad.	The whole.



GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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THE INDIAN OFFICIAL SECRETS ACT, 1889  
(XV OF 1889),

AS MODIFIED UP TO 1st APRIL, 1904.

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CALCUTTA :  
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA,  
1904.

[Price Three Annas.]

CALCUTTA.  
GOVERNMENT OF INDIA CENTRAL PRINTING OFFICE,  
HASTINGS STREET

## ACT No. XV OF 1889<sup>1</sup>.

[17th October, 1889.]

### An Act to prevent the Disclosure of Official Documents and Information.

(As modified up to 1st April, 1904.)

WHEREAS it is expedient to prevent the disclosure of official documents and information; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Official Secrets Act, 1889; and

Title, extent and application.

(2) It extends to the whole of British India, and applies—

(a) to all subjects of His Majesty within the dominions of Princes and States in India in alliance with His Majesty, and

(b) to all native Indian subjects of His Majesty without and beyond British India.

2. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) any reference to a place belonging to His Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in His Majesty.

(2) expressions

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1889, Pt. V, p. 206; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 167 and 176.

For Statement of Objects and Reasons of the Indian Official Secrets (Amendment) Act, 1904 (V of 1904), see Gazette of India, 1903, Pt. V, p. 464; for Report of the Select Committee, see *ibid*, 1904, p. 13; for Proceedings in Council, see *ibid*, 1903, Pt. VI, pp. 156, 188 and 198, *ibid*, 1904, Pt. VI, pp. 14 and 27.

Act XV of 1889 has been declared in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

It had been previously extended there under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see Burma Gazette, 1893, Pt. I, p. 154.

Act V of 1904 extends to Upper Burma, *proprio vigore*.

Act XV of 1889 has been declared in force in British Baluchistan, by the British Baluchistan Laws Regulation, 1890 (I of 1890), s. 3, printed, Baluchistan Code, Ed. 1900.

The expression "His Majesty" was substituted throughout this Act for the expression "Her Majesty" by s. 6 of the Indian Official Secrets (Amendment) Act, 1904 (V of 1904).

(2) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated :

(3) "document" includes part of a document :

(4) "model" includes design, pattern and specimen :

(5) "sketch" includes any photograph or other mode of representation of any place or thing :

\* \* 1

(6) "office under His Majesty" includes any office or employment in or under any department of the Government:<sup>1</sup> and

(7) "civil affairs" means affairs—

(a) affecting the relations of His Majesty's Government or of the Governor General in Council with any foreign State, or

(b) affecting the relations of the Governor General in Council with any Native State in India, or relating to the public debt or the fiscal arrangements of the Government of India or any other important matters of State, where these affairs are of such a confidential nature that the public interest would suffer by their disclosure.

Disclosure of information.

3. (1) (a) Where a person for the purpose of wrongfully obtaining information—

(i) enters or is in any part of a place belonging to His Majesty, being a fortress, arsenal, factory, dockyard, camp, ship \* \* 2 or other

<sup>1</sup> The word "and" between clauses (5) and (6) was repealed, while the word "and" at the end of clause (6) and clause (7) were added at the end of s. 2, by s. 2 of the Indian Official Secrets (Amendment) Act, 1904 (V of 1904).

<sup>2</sup> The word "office" was repealed by s. 3 (a) of the Indian Official Secrets (Amendment) Act, 1904 (V of 1904).

other like place, in which part he is not entitled to be, or,

- (ii) when lawfully or unlawfully in any such place as aforesaid, <sup>1</sup>[or in any office belonging to His Majesty] either obtains <sup>1</sup>[or attempts to obtain] any document, sketch, plan, model or knowledge of <sup>1</sup>[any naval, military or civil affair of His Majesty] which he is not entitled to obtain, <sup>1</sup>[or any copy of any such document, sketch, plan or model] or takes <sup>1</sup>[or attempts to take] without lawful authority any sketch or plan, or,
- (iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to His Majesty, takes or attempts to take without authority given by or on behalf of His Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or
- (b) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, <sup>2</sup>[in the public interest], to be communicated at that time, or
- (c) where a person after having been entrusted in confidence by some officer under His Majesty with any document, sketch, plan, model or information relating to any such place

<sup>1</sup> These words were inserted, and the words "any naval, military or civil affair of His Majesty" were substituted for the word "anything", by s. 3 (b) of the Indian Official Secrets (Amendment) Act, 1904 (V of 1904).

<sup>2</sup> These words were substituted for the words "in the interest of the State", by s. 3 (c) of Act V of 1904.

place as aforesaid, or to the <sup>1</sup> [naval, military or civil] affairs of His Majesty, wilfully and in breach of such confidence communicates the same when <sup>2</sup> [in the public interest] it ought not to be communicated,

he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both ;

<sup>3</sup> (2) Where a person commits any act specified in clauses (i), (ii) and (iii) of sub-section (1), sub-head (a), without lawful authority or permission (the proof of which authority or permission shall be upon him), the Court may presume that he has committed such act for the purpose of wrongfully obtaining information ; and

<sup>3</sup> [(3)] Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to His Majesty, or to the <sup>1</sup> [naval, military or civil] affairs of His Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, <sup>2</sup> [in the public interest,] to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

<sup>3</sup> [(4)] Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or

<sup>1</sup> These words were substituted for the words "naval or military," by s. 3 (c) of the Indian Official Secrets (Amendment) Act, 1904 (V of 1904).

<sup>2</sup> See second footnote on preceding page.

<sup>3</sup> Sub-section (2) was inserted, and the original sub-sections (2) & (3) re-numbered as (3) & (4), by s. 3 (d) of Act V of 1904.

or for any term not less than five years, or with imprisonment for a term which may extend to two years.

4. (1) Where a person, by means of his holding or having held an office under His Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information to any person to whom the same ought not, <sup>1</sup>\* \* \* \* in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

Breach of  
official trust.

(2) A person guilty of a breach of official trust shall—

(a) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and

(b) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under His Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract, who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under His Majesty.

5. <sup>2</sup>(1) Notwithstanding anything in the Code of Criminal

Certain  
offences

<sup>1</sup> The words "in the interest of the State, or otherwise," were repealed by s. 4 of the Indian Official Secrets (Amendment) Act, 1904 (V of 1904).

<sup>2</sup> Sections 5, 6 and 7 were substituted for the original section 5, by s. 5 of Act V of 1904.

under Act  
declared cog-  
nizable.

Criminal Procedure, 1898,<sup>1</sup> every offence against this V of 1898.  
Act committed in relation to any fortress, arsenal,  
factory, dockyard, camp or ship belonging to His  
Majesty, or in relation to the naval or military affairs  
of His Majesty, shall, for the purposes of the said  
Code, be deemed to be cognizable :

Provided that a person accused of any such offence  
shall not be released on bail unless on the order of a  
Magistrate of the first class.

(2) Every other offence against this Act shall be  
non-cognizable.

Procedure  
after arrest  
on charge of  
certain offen-  
ces punish-  
able under  
Act.

<sup>2</sup>6. (1) Any person, being a public servant as de- XLV of  
fined in the Indian Penal Code,<sup>1</sup> may arrest any 1860.  
person who in his view commits any of the offences  
described in section 5, sub-section (1), and any such  
person, or any police-officer who has arrested any  
person on a charge of any such offence, and any  
police-officer to whom any person arrested on any  
such charge has been made over, shall take or send  
him before the officer for the time being in command  
or charge of the fortress, arsenal, factory, dockyard,  
camp or ship, or of the nearest military station, or  
before a Magistrate of the first class.

(2) Where any person has been taken or sent  
before the commanding or other officer in accordance  
with sub-section (1), such officer may, if he thinks  
fit, discharge such person, but, if he does not dis-  
charge him, shall, without unnecessary delay, take or  
send him to the nearest police-station or to any  
Magistrate of the first class.

(3) Where any person has been taken or sent to  
a police-station or to a Magistrate under sub-section  
(2), the provisions of the Code of Criminal Proce-  
dure, 1898,<sup>1</sup> shall, save as otherwise provided by V of 1898.  
section 7, apply to him as though he had been taken  
to

<sup>1</sup> See now the revised edition of the Code, as modified up to 1st April, 1908.

<sup>2</sup> See second footnote on preceding page.

1889.]

*Official Secrets.*

to such police-station or Magistrate without being taken or sent before the commanding or other officer.

<sup>1</sup>7. (1) No Magistrate of the second class shall have jurisdiction to try any person for an offence against this Act. Restriction  
on trial of  
offences.

(2) No Court shall proceed to the trial of any person for an offence against this Act, except with the consent of the Local Government or the Governor General in Council.

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<sup>1</sup> See second footnote on page 5.



GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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**THE LAND IMPROVEMENT LOANS ACT, 1883,  
(ACT XIX OF 1883,)**

**AS MODIFIED UP TO 1ST SEPTEMBER, 1906.**

CALCUTTA :  
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## STATEMENT OF REPEALS.

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SECTION 12 (2) REPEALED . . . . .	ACT XII OF 1891, (FIRST SCHEDULE).
„ 6 (1) AMENDED . . . . .	ACT XVIII OF 1899, SECTION 2.
SECTIONS 1, 6, 10 AND 11 AMENDED . . . . .	ACT VIII OF 1906, SECTIONS 2 TO 5.

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The following changes have been made in reprinting the Act :—

- (1) repealed matter has been omitted, explanatory notes being inserted ;
- (2) some foot-notes have been added for convenience of reference ; and
- (3) section-numbers occurring in the text have been printed in figures instead of in words.



# ACT NO. XIX OF 1883.<sup>1</sup>

[12th October, 1883.]

An Act to consolidate and amend the law relating to loans of money by the Government for agricultural improvements.<sup>2</sup>

[As modified up to the 1st September, 1906.]

WHEREAS it is expedient to consolidate and amend the law relating to loans of money by the Government for agricultural improvements; It is hereby enacted as follows :—

1. (1) This Act may be called the Land Improvement Loans Act, 1883. Short title.

(2) It extends to the whole of British India, but shall not come into force in any part of British India until such date as the Local Government, \* \* \* Local extent.  
Commence-  
ment.  
\* \*,<sup>3</sup> may, by notification in the local official Gazette, appoint in this behalf.<sup>4</sup>

## 2. (1) The

<sup>1</sup> For the Statement of Objects and Reasons, *see* Gazette of India, 1882, Pt. V, p. 954; for Report of the Select Committee, *see* *ibid.*, 1883, Supplement, p. 1296; for Proceedings in Council, *see* *ibid.*, 1882, Supplement, pp. 1494 and 1697; *ibid.*, 1883, Supplement, p. 2071.

<sup>2</sup> Instruments executed by persons taking loans, or by their sureties, as security for the repayment of such loans, are exempted from stamp-duty—*see* The Indian Stamp Act, 1899, and s. 2 (2) of this Act.

<sup>3</sup> The words “with the previous sanction of the Governor General in Council” were repealed by s. 2 of the Land Improvement and Agriculturists’ Loans (Amendment) Act, 1906 (8 of 1906).

<sup>4</sup> Act XIX of 1883 came into force in—

The Lower Provinces *see* Calcutta Gazette, 1884, Pt. I, p. 1137.  
of Bengal from 1st  
December, 1884.

The Punjab from 1st „ Punjab „ 1885, „ I, p. 378.  
June, 1885.

Lower Burma from „ Burma „ 1885, „ I, p. 306.  
19th September,  
1885.

The Central Prov- „ Central  
inces, *see* Notifica- Provinces „ 1899, „ III, p. 30.  
tion of 9th Febru-  
ary, 1899.

The Madras Presi- „ Fort St.  
dency from 1st George „ 1886, „ I, p. 547.  
July, 1886.

The Bombay Presi- „ Bombay  
dency (except Aden Govt. „ 1886, „ I, p. 200.  
and Perim) from  
1st April, 1886.

*Land Improvement Loans.*      [ACT XIX  
(Sections 2-4.)

Acts XXVI  
of 1871 and  
XXI of 1876  
repealed.

2. (1) The Land Improvement Act, 1871, and Act XXI of 1876 (*An Act to amend the Land Improvement Act, 1871*), shall, except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government in respect of such advances, be repealed.

XXVI of  
1871.

(2) When in any Act, Regulation or Notification passed or issued before this Act comes into force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

"Collector"  
defined.

3. In this Act, "Collector" means the Collector of land-revenue of a district, or the Deputy Commissioner, or any officer empowered by the Local Government by name or by virtue of his office to discharge the functions of a Collector<sup>1</sup> under this Act.

Purposes  
for which  
loans may  
be granted  
under this  
Act.

4. (1) Subject to such rules as may be made under section 10, loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the Local Government, for the purpose of making any improvement, to any person having a right to make that improvement, or, with the consent of that person, to any other person.

(2) "Improvement"

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The Province of Agra *see* N.-W. P.  
from 1st January, and Oudh Gazette, 1885, Pt. I, p. 529.  
1886.

Oudh from 1st Janu- ,, Oudh ,, 1885, ,, I, p. 541.  
ary, 1886.

Coorg from 1st Janu- ,, Coorg Dis-  
ary, 1887. trict ,, 1887, ,, I, p. 658.

Assam from 1st June, ,, Assam ,, 1891, ,, II, p. 193.  
1891.

It has been extended by notification under section 5 of the Scheduled Districts Act, 1874 (XIV of 1874), General Acts, Vol. II, to Ajmer-Merwara—*see* Gazette of India, 1886, Pt. II, p. 157.

It has been declared in force in—

the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899);

Upper Burma generally (except the Shan States) by the Upper Burma Laws Act, 1886 (XX of 1886), s. 6, *see* the Burma Laws Act, 1898 (XIII of 1898). Burma Code, Ed. 1899.

<sup>1</sup> Cf. s. 3 (10) of the General Clauses Act, 1897 (X of 1897), General Acts, Vol. VI.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely:—

- (a) the construction of wells, tanks and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;
- (b) the preparation of land for irrigation;
- (c) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste-land which is culturable;
- (d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;
- (e) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto; and
- (f) such other works as the Local Government,  
1 \* \* \* \* \*, may,  
from time to time, by notification in the local official Gazette, declare to be improvements for the purposes of this Act.

5. (1) When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the Local Government<sup>2</sup> may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time

Mode of  
dealing with  
applications  
for loans.

<sup>1</sup> The words "with the previous sanction of the Governor General in Council" were repealed by the Land Improvement and Agriculturists' Loans (Amendment) Act, 1906 (8 of 1906), s. 2.

<sup>2</sup> For notifications making such direction in—

Bombay . . . see Bombay List of Local Rules and Orders,  
Ed. 1896, Vol. I, p. cxiv.

Burma . . . see Burma Laws List, Ed. 1897, p. 175.

*Land Improvement Loans.*     [ACT XIX  
(Sections 6-7.)]

time and place fixed therein and submit their objections.

(2) The officer shall consider every objection submitted under sub-section (1), and make an order in writing either admitting or overruling it :

Provided that, when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

Period for  
repayment  
of loans.

6. (1) Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise) within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments, <sup>1</sup>[from the date of the advance of the last instalment actually paid] as may, from time to time, be fixed by the rules made under this Act.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

(3) The Local Government \* \* \* \* \*,<sup>2</sup>  
in making \* \* \* \* \* the rules fixing the period, shall, in considering whether the period should extend to thirty-five years, or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

Recovery of  
loans.

7. (1) Subject to such rules as may be made under section 10, all loans granted under this Act,  
all

---

<sup>1</sup> These words were substituted for the words "from the date of the actual advance of the last instalments" by s. 2 of the Land Improvement Loans (Amendment) Act, 1899 (XVIII of 1899), General Acts, Vol. VII.

<sup>2</sup> The words "and Governor General in Council" and the words "and sanctioning" were repealed by s. 3 of the Land Improvement and Agriculturists' Loans (Amendment) Act, 1906 (8 of 1906).

1883.]      *Land Improvement Loans.*  
(Section 7.)

all interest (if any) chargeable (thereon) and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes, namely :—

- (a) from the borrower— as if they were arrears of land-revenue due by him ;
- (b) from his surety (if any)—as if they were arrears of land-revenue due by him ;
- (c) out of the land for the benefit of which the loan has been granted—as if they were arrears of land-revenue due in respect of that land ;
- (d) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land-revenue by the sale of immoveable property other than the land on which that revenue is due :

Provided that no proceeding in respect of any land under clause (c) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section 4 with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under sub-section (1) by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by sub-section (1).

(3) It

*Land Improvement Loans.* [ACT XIX  
(Sections 8-10.)

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

Order granting loan conclusive on certain points.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

- (a) that the work described is an improvement within the meaning of this Act ;
- (b) that the person mentioned had at the date of the order a right to make such an improvement ; and
- (c) that the improvement is one benefiting the land specified.

Liability of joint borrowers as among themselves.

9. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Power to make rules.

10. The Local Government, <sup>1</sup>[subject to the control] of the Governor General in Council, may, from time to time, by notification in the local official

Gazette,

---

<sup>1</sup> The words "subject to the control" were substituted for the words "with the previous sanction" by s. 4 of the Land Improvement and Agriculturists' Loans (Amendment) Act, 1906 (8 of 1906).

Gazette, make rules<sup>1</sup> consistent with this Act to provide for the following matters, namely :—

- (a) the manner of making applications for loans ;
- (b) the officers by whom loans may be granted ;
- (c) the manner of conducting inquiries relative to applications for loans and the powers to be exercised by officers conducting those inquiries ;
- (d) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans ;
- (e) the inspection of works for which loans have been granted ;
- (f) the instalments by which, and the mode in which, loans, the interest to be charged on them and the costs incurred in the making thereof, shall be paid ;
- (g) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same ; and
- (h) all other matters pertaining to the working of the Act.

11. When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in

Exemption of improvements from assessment to land-revenue.

<sup>1</sup> For notifications making such rules in—

(1) Assam—see Assam List of Local Rules and Orders, Ed. 1893, pp. 194 and 199 ;

(2) Bombay—see Bombay List of Local Rules and Orders, Ed. 1896, Vol. I, p. cxiv, and Bombay Government Gazette, 1900, Pt. I, p. 967, and *ibid.*, p. 1898 ;

(3) Burma—see Burma Laws List, Ed. 1897, p. 175 ;

(4) Madras—see Madras List of Local Rules and Orders, Ed. 1898, Vol. I, pp. 206 and 207 ;

(5) United Provinces and Oudh—see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, pp. 117 and 118 ;

(6) Punjab—see Punjab Gazette, 1901, Pt. I, p. 822.

For rules made by the Government of Bengal under ss. 10 and 11, see Calcutta Gazette, 1901, Pt. I, p. 218, and *ibid.*, 1902, Pt. I, p. 240.

For rules made by the Government of Madras, combined with rules under s. 4 of the Agriculturists' Loans Act, 1884 (XII of 1884), see Fort St. George Gazette, 1897, Pt. I, p. 1332.

*Land Improvement Loans.* [ACT XIX, 1883.]

(Section 12.)

in revising the assessment of land-revenue on the land :

Provided as follows :—

(1) where the improvement consists of the reclamation of waste-land, or of the irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the Local Government \* \* \* \* \*

(2) nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed.

Act III of  
1877 amend-  
ed.

12. (1) In the <sup>2</sup> Indian Registration Act, 1877, <sup>III of 1877.</sup> section 17, clause (1), for the word "certificates" the words "orders granting loans" shall be substituted.

(2) [*Repealed by the Repealing and Amending Act, 1891 (XII of 1891), First Schedule.*]

(3) In the same Act, section 89, first clause,—

(a) for the words "a certificate" the words "a loan", and

(b) for the words "such certificate" the words "his order,"

shall be substituted.

<sup>1</sup> The words "with the approval of the Governor General in Council" were repealed by s. 5 of the Land Improvement and Agriculturists' Loans (Amendment) Act, 1906 (8 of 1906).

<sup>2</sup> See the Act as modified up to 1st August, 1905.

GOVERNMENT OF INDIA  
LEGISLATIVE DEPARTMENT

THE INDIAN LIMITATION ACT, 1908  
(IX OF 1908)

CALCUTTA :  
OFFICE OF THE SUPERINTENDENT, GOVERNMENT PRINTING, INDIA,  
1908

[Price thirteen annas.]



# THE INDIAN LIMITATION ACT, 1908 (IX OF 1908).

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1908.]

## ACT No. IX OF 1908.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 7th August, 1908.)*

An Act to consolidate and amend the law for the Limitation of Suits, and for other purposes.

WHEREAS it is expedient to consolidate and amend the law relating to the limitation of suits, appeals and certain applications to Courts; and whereas it is also expedient to provide rules for acquiring by possession the ownership of easements and other property; It is hereby enacted as follows:—

### PART I.

#### PRELIMINARY.

1. (1) This Act may be called the Indian Limita- Short title,  
extent and  
commence-  
ment.  
tion Act, 1908.

(2) It extends to the whole of British India;  
and

(3) This section and section 31 shall come into force at once. The rest of this Act shall come into force on the first day of January 1909.

2. In this Act, unless there is anything repugnant Definitions.  
in the subject or context,—

(1) “applicant” includes any person from or through whom an applicant derives his right to apply:

(2) “bill of exchange” includes a hundi and a cheque:

(3) “bond” includes any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a  
specified

(*Part I.—Preliminary. Part II.—Limitation of Suits, Appeals and Applications.*)

specified act is performed, or is not performed, as the case may be :

(4) “defendant” includes any person from or through whom a defendant derives his liability to be sued :

(5) “easement” includes a right not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another or anything growing in, or attached to, or subsisting upon, the land of another :

(6) “foreign country” means any country other than British India :

(7) “good faith” : nothing shall be deemed to be done in good faith which is not done with due care and attention :

(8) “plaintiff” includes any person from or through whom a plaintiff derives his right to sue :

(9) “promissory note” means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight :

(10) “suit” does not include an appeal or an application : and

(11) “trustee” does not include a benamidar, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title.

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PART II.

LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

Dismissal of  
suits, etc.,  
instituted,  
etc., after  
period of  
limitation.

3. Subject to the provisions contained in sections 4 to 25 (inclusive), every suit instituted, appeal preferred, and application made, after the period of limitation prescribed therefor by the first schedule shall be dismissed, although limitation has not been set up as a defence.

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*Explanation.*—A suit is instituted, in ordinary cases, when the plaint is presented to the proper officer; in the case of a pauper, when his application for leave to sue as a pauper is made; and, in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

4. Where the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day that the Court re-opens.

Where Court  
is closed  
when period  
expires.

5. Any appeal or application for a review of judgment or for leave to appeal or any other application to which this section may be made applicable by any enactment or rule for the time being in force may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

Extension of  
period in  
certain cases.

*Explanation.*—The fact that the appellant or applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period of limitation may be sufficient cause within the meaning of this section.

6. (1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the first schedule.

Legal  
disability.

(2) Where such person is, at the time from which the period of limitation is to be reckoned, affected by two such disabilities, or where, before his disability

has

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### *(Part II.—Limitation of Suits, Appeals and Applications.)*

has ceased, he is affected by another disability, he may institute the suit or make the application within the same period, after both disabilities have ceased, as would otherwise have been allowed from the time so prescribed.

(3) Where the disability continues up to the death of such person, his legal representative may institute the suit or make the application within the same period after the death as would otherwise have been allowed from the time so prescribed.

(4) Where such representative is at the date of the death affected by any such disability, the rules contained in sub-sections (1) and (2) shall apply.

#### *Illustrations.*

(a) The right to sue for the hire of a boat accrues to A during his minority. He attains majority four years after such accruer. He may institute his suit at any time within three years from the date of his attaining majority.

(b) A right to sue accrues to Z during his minority. After the accruer, but while Z is still a minor, he becomes insane. Time runs against Z from the date when his insanity and minority cease.

(c) A right to sue accrues to X during his minority. X dies before attaining majority, and is succeeded by Y, his minor son. Time runs against Y from the date of his attaining majority.

Disability  
of one of  
several  
plaintiffs or  
applicants.

7. Where one of several persons jointly entitled to institute a suit or make an application for the execution of a decree is under any such disability, and a discharge can be given without the concurrence of such person, time will run against them all: but, where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased.

#### *Illustrations.*

(a) A incurs a debt to a firm of which B, C and D are partners. B is insane, and C is a minor. D can give a discharge

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of the debt without the concurrence of B and C. Time runs against B, C and D.

(b) A incurs a debt to a firm of which E, F and G are partners. E and F are insane, and G is a minor. Time will not run against any of them until either E or F becomes sane, or G attains majority.

8. Nothing in section 6 or in section 7 applies to suits to enforce rights of pre-emption, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which any suit must be instituted or application made. Special exceptions.

*Illustrations.*

(a) A, to whom a right to sue for a legacy has accrued during his minority, attains majority eleven years after such accruer. A has, under the ordinary law, only one year remaining within which to sue. But under section 6 and this section an extension of two years will be allowed him, making in all a period of three years from the date of his attaining majority, within which he may bring his suit.

(b) A right to sue for an hereditary office accrues to A who at the time is insane. Six years after the accruer A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under section 6 read with this section.

(c) A right to sue as landlord to recover possession from a tenant accrues to A, who is an idiot. A dies three years after the accruer, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. Section 6 read with this section does not extend that time, except where the representative is himself under disability when the representation devolves upon him.

9. Where once time has begun to run, no subsequent disability or inability to sue stops it: Continuous running of time.

Provided that, where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

10. Notwithstanding

(Part II.—Limitation of Suits, Appeals and Applications. Part III.—Computation of Period of Limitation.)

Suits against express trustees and their representatives.

10. Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of following in his or their hands such property, or the proceeds thereof, or for an account of such property or proceeds, shall be barred by any length of time.

Suits on foreign contracts.

11. (1) Suits instituted in British India on contracts entered into in a foreign country are subject to the rules of limitation contained in this Act.

(2) No foreign rule of limitation shall be a defence to a suit instituted in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract and the parties were domiciled in such country during the period prescribed by such rule.

### PART III.

#### COMPUTATION OF PERIOD OF LIMITATION.

Exclusion of time in legal proceedings.

12. (1) In computing the period of limitation prescribed for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded.

(2) In computing the period of limitation prescribed for an appeal, an application for leave to appeal and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be reviewed, shall be excluded.

(3) Where a decree is appealed from or sought to be reviewed, the time requisite for obtaining a copy of the judgment on which it is founded shall also be excluded.

(4) In

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(Part III.—*Computation of Period of Limitation.*)

(4) In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

13. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India and from the territories beyond British India under the administration of the Government shall be excluded.

Exclusion of time of defendant's absence from British India and certain other territories.

14. (1) In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or in a Court of appeal, against the defendant, shall be excluded, where the proceeding is founded upon the same cause of action and is prosecuted in good faith in a Court which, from defect of jurisdiction, or other cause of a like nature, is unable to entertain it.

Exclusion of time of proceeding *bond fide* in Court without jurisdiction.

(2) In computing the period of limitation prescribed for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or in a Court of appeal, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a Court which, from defect of jurisdiction, or other cause of a like nature, is unable to entertain it.

*Explanation I.*—In excluding the time during which a former suit or application was pending, the day on which that suit or application was instituted or made, and the day on which the proceedings therein ended, shall both be counted.

*Explanation II.*—For the purposes of this section, a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding.

*Explanation III.*—For the purposes of this section misjoinder of parties or of causes of action shall be deemed

*(Part III.—Computation of Period of Limitation.)*

deemed to be a cause of a like nature with defect of jurisdiction.

Exclusion of time during which proceedings are suspended.

15. (1) In computing the period of limitation prescribed for any suit or application for the execution of a decree, the institution or execution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(2) In computing the period of limitation prescribed for any suit of which notice has been given in accordance with the requirements of any enactment for the time being in force, the period of such notice shall be excluded.

Exclusion of time during which proceedings to set aside execution-sals are pending. Effect of death before right to sue accrues.

16. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which a proceeding to set aside the sale has been prosecuted shall be excluded.

17. (1) Where a person who would, if he were living, have a right to institute a suit or make an application, dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting or making such suit or application.

(2) Where a person against whom, if he were living, a right to institute a suit or make an application would have accrued dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute or make such suit or application.

(3) Nothing in sub-sections (1) and (2) applies to suits to enforce rights of pre-emption or to suits for the possession of immoveable property or of an hereditary office.

Effect of fraud.

18. Where any person having a right to institute a suit or make an application has, by means of fraud, been

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*(Part III.—Computation of Period of Limitation.)*

been kept from the knowledge of such right or of the title on which it is founded,

or where any document necessary to establish such right has been fraudulently concealed from him,

the time limited for instituting a suit or making an application—

(a) against the person guilty of the fraud or accessory thereto, or

(b) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

19. (1) Where, before the expiration of the period prescribed for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.

Effect of acknowledgment in writing.

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but, subject to the provisions of the Indian Evidence Act, 1872, oral evidence of its contents shall not be received.

I of 1872.

*Explanation I.*—For the purposes of this section an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come, or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to a set-off, or is addressed to a person other than the person entitled to the property or right.

*Explanation II.*—

(Part III.—Computation of Period of Limitation.)

*Explanation II.*—For the purposes of this section, “signed” means signed either personally or by an agent duly authorized in this behalf.

*Explanation III.*—For the purposes of this section an application for the execution of a decree or order is an application in respect of a right.

Effect of payment of interest as such or of part payment of principal.

20. (1) Where interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent duly authorized in this behalf,

or where part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent duly authorized in this behalf,

a fresh period of limitation shall be computed from the time when the payment was made :

Provided that, in the case of part payment of the principal of a debt, the fact of the payment appears in the handwriting of the person making the same.

Effect of receipt of produce of mortgaged land.

(2) Where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment for the purpose of sub-section (1).

*Explanation.*—Debt includes money payable under a decree or order of Court.

Agent of person under disability.

21. (1) The expression “agent duly authorized in this behalf,” in sections 19 and 20, shall, in the case of a person under disability, include his lawful guardian, committee or manager, or an agent duly authorized by such guardian, committee or manager to sign the acknowledgment or make the payment.

Acknowledgment or payment by one of several joint contractors, etc.

(2) Nothing in the said sections renders one of several joint contractors, partners, executors or mortgagees chargeable by reason only of a written acknowledgment signed or of a payment made by, or by the agent of, any other or others of them.

Effect of substituting or adding

22. (1) Where, after the institution of a suit, a new plaintiff or defendant is substituted or added, the

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the suit shall, as regards him, be deemed to have been instituted when he was so made a party. new plaintiff or defendant.

(2) Nothing in sub-section (1) shall apply to a case where a party is added or substituted owing to an assignment or devolution of any interest during the pendency of a suit or where a plaintiff is made a defendant or a defendant is made a plaintiff.

23. In the case of a continuing breach of contract and in the case of a continuing wrong independent of contract, a fresh period of limitation begins to run at every moment of the time during which the breach or the wrong, as the case may be, continues. Continuing breaches and wrongs.

24. In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results therefrom, the period of limitation shall be computed from the time when the injury results. Suit for compensation for act not actionable without special damage.

*Illustration.*

A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation in the case of a suit by A against B runs from the time of the subsidence.

25. All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar. Computation of time mentioned in instruments.

*Illustrations.*

(a) A Hindu makes a promissory note bearing a Native date only, and payable four months after date. The period of limitation applicable to a suit on the note runs from the expiration of four months after date computed according to the Gregorian calendar.

(b) A Hindu makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiration of one year after date computed according to the Gregorian calendar.

**PART IV.**

PART IV.

ACQUISITION OF OWNERSHIP BY POSSESSION.

Acquisition  
of right to  
easements.

26. (1) Where the access and use of light or air to and for any building have been peaceably enjoyed therewith as an easement, and as of right, without interruption, and for twenty years,

and where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right without interruption, and for twenty years,

the right to such access and use of light or air, way, watercourse, use of water, or other easement shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

(2) Where the property over which a right is claimed under sub-section (1) belongs to Government, that sub-section shall be read as if for the words "twenty years" the words "sixty years" were substituted.

*Explanation.*—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

*Illustrations.*

(a) A suit is brought in 1911 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably  
and

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Part V.—*Savings and Repeals.*)

and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption from 1st January 1890 to 1st January 1910. The plaintiff is entitled to judgment.

(b) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff, on one occasion during the twenty years, had asked his leave to enjoy the right. The suit shall be dismissed.

27. Where any land or water upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the period of twenty years in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

Exclusion in  
favour of  
reversioner  
of servient  
tenement.

*Illustration.*

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C, a Hindu widow, had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

28. At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.

Extinguish-  
ment of  
right to pro-  
perty.

PART V.

SAVINGS AND REPEALS.

29. (1) Nothing in this Act shall—

Savings.

(a) affect the Indian Contract Act, 1872, section 25 ;

(b) affect

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(b) affect or alter any period of limitation specially prescribed for any suit, appeal or application by any special or local law now or hereafter in force in British India.

(2) Nothing in this Act shall apply to suits under the Indian Divorce Act.

IV of 1869.

(3) Sections 26 and 27 and the definition of "easement" in section 2 shall not apply to cases arising in territories to which the Indian Easements Act, 1882, may for the time being extend.

V of 1882.

Provision for suits for which the period prescribed is shorter than that prescribed by the Indian Limitation Act, 1877.

30. Notwithstanding anything herein contained, any suit for which the period of limitation prescribed by this Act is shorter than the period of limitation prescribed by the Indian Limitation Act, 1877, may be instituted within the period of two years next after the passing of this Act, or within the period prescribed for such suit by the Indian Limitation Act, 1877, whichever period expires first.

XV of 1877.

Provision for suits by certain mortgagees in territories mentioned in the second schedule.

31. (1) Notwithstanding anything contained in this Act or in the Indian Limitation Act, 1877, in the territories mentioned in the second schedule a suit for foreclosure or a suit for sale by a mortgagee may be instituted within two years from the date of the passing of this Act, or within sixty years from the date when the money secured by the mortgage became due, whichever period expires first; and no such suit in the said territories instituted within the said period of sixty years and pending at the date of the passing of this Act, either in a Court of first instance or of appeal, shall be dismissed on the ground that a twelve years' rule of limitation is applicable.

XV of 1877.

(2) Where in the aforesaid territories the claim of a mortgagee for foreclosure or for sale has been wholly or in part dismissed or withdrawn after the twenty-second day of July 1907 and before the passing of this Act, either in a Court of first instance or of appeal on the ground that a twelve years' rule of limitation applied to such claim, the case may be restored on an application in writing to the Court by which

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which the claim was dismissed or in which it was withdrawn, provided the application is made within six months from the date of the passing of this Act : and on such restoration, the provisions of sub-section (1) shall apply.

**32.** The enactments mentioned in the third <sup>Repeals.</sup> schedule are repealed to the extent specified in the fourth column thereof.



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*(The First Schedule.—First Division : Suits.)*

THE FIRST SCHEDULE.

*(See section 3.)*

FIRST DIVISION: SUITS

Description of suit.	Period of limitation.	Time from which period begins to run.
XXIII of 1863.	<i>Part I.—Thirty days.</i>	
	1.—To contest an award of the Board of Revenue under the Waste Lands (Claims) Act, 1863.	Thirty days . When notice of the award is delivered to the plaintiff.
	<i>Part II.—Ninety days.</i>	
	2.—For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in British India.	Ninety days . When the act or omission takes place.
I of 1877.	<i>Part III.—Six months.</i>	
	3.—Under the Specific Relief Act, 1877, section 9, to recover possession of immoveable property.	Six months . When the dispossession occurs.
XI of 1860.	4.—Under the Employers and Workmen (Disputes) Act, 1860, section 1.	Ditto . . . When the wages, hire or price of work claimed accrue or accrues due.

5.—Under

## (The First Schedule.—First Division : Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part III.—Six months—contd.</i>	
5.—Under the summary procedure referred to in section 128 (2) (f.) of the Code of Civil Procedure, 1908.	Six months .	When the debt or liquidated demand becomes payable or when the property becomes recoverable.
	<i>Part IV.—One year.</i>	
6.—Upon a Statute, Act, Regulation or By-law, for a penalty or forfeiture.	One year .	When the penalty or forfeiture is incurred.
7.—For the wages of a household servant, artisan or labourer not provided for by this schedule, article 4.	Ditto .	When the wages accrue due.
8.—For the price of food or drink sold by the keeper of a hotel, tavern or lodging-house.	Ditto .	When the food or drink is delivered.
9.—For the price of lodging	Ditto .	When the price becomes payable.
10.—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	Ditto .	When the purchaser takes, under the sale sought to be impeached, physical possession of the whole of the property sold, or, where the subject of the sale does not admit of physical possession, when the instrument of sale is registered.

11.—By

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*Limitation.**(The First Schedule.—First Division : Suits.)*THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
<p>11.—By a person, against whom any of the following orders has been made to establish the right which he claims to the property comprised in the order :</p> <p>(1) Order under the Code of Civil Procedure, 1908, on a claim preferred to, or an objection made to the attachment of, property attached in execution of a decree ;</p> <p>(2) Order under section 28 of the Presidency Small Cause Courts Act, 1882.</p>	<p><i>Part IV.—One year—contd.</i></p> <p>One year . . .</p>	The date of the order.
	Ditto .	

execution

## (The First Schedule.—First Division : Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
<p>execution of a decree, complaining of resistance or obstruction to the delivery of possession thereof, or upon an application by any person dispossessed of such property in the delivery of possession thereof to the decree-holder or purchaser, to establish the right which he claims to the present possession of the property comprised in the order.</p>	<p><i>Part IV.—One year—contd.</i></p>	
<p>12.—To set aside any of the following sales:—</p> <p>(a) sale in execution of a decree of a Civil Court ;</p> <p>(b) sale in pursuance of a decree or order of a Collector or other officer of revenue ;</p> <p>(c) sale for arrears of Government revenue, or for any demand recoverable as such arrears ;</p>	<p>One year . . .</p>	<p>When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.</p>

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(*The First Schedule.—First Division : Suits.*)

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
<i>Part IV.—One year—contd.</i>		
(d) sale of a patni taluq sold for current arrears of rent.		
<i>Explanation.</i> —In this article “patni” includes any intermediate tenure saleable for current arrears of rent.		
13.—To alter or set aside a decision or order of a Civil Court in any proceeding other than a suit.	One year . .	The date of the final decision or order in the case by a Court competent to determine it finally.
14.—To set aside any act or order of an officer of Government in his official capacity, not herein otherwise expressly provided for.	Ditto . .	The date of the act or order.
15.—Against Government to set aside any attachment, lease or transfer of immovable property by the revenue-authorities for arrears of Government revenue.	Ditto . .	When the attachment, lease or transfer is made.

16.—Against

*Limitation.*  
(*The First Schedule.—First Division : Suits.*)

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THE FIRST SCHEDULE—*contd.*

FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
<i>Part IV.—One year—contd.</i>		
16.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue-authorities on account of arrears of revenue or on account of demands recoverable as such arrears.	One year . . .	When the payment is made.
17.—Against Government for compensation for land acquired for public purposes.	Ditto . . .	The date of determining the amount of the compensation.
18.—Like suit for compensation when the acquisition is not completed.	Ditto . . .	The date of the refusal to complete.
19.—For compensation for false imprisonment.	Ditto . . .	When the imprisonment ends.
20.—By executors, administrators or representatives under the Legal Representatives' Suits Act, 1855.	Ditto . . .	The date of the death of the person wronged.
21.—By executors, administrators or representatives under the Indian Fatal Accidents Act, 1855.	Ditto . . .	The date of the death of the person killed.

XII of  
1855.

XIII of  
1855.

22.—For

1908.]

*Limitation.*

(*The First Schedule.—First Division : Suits.*)

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation	Time from which period begins to run.
	<i>Part IV.—One year—contd.</i>	
22.—For compensation for any other injury to the person.	One year . .	When the injury is committed.
23.—For compensation for a malicious prosecution.	Ditto . .	When the plaintiff is acquitted, or the prosecution is otherwise terminated
24.—For compensation for libel.	Ditto . .	When the libel is published.
25.—For compensation for slander.	Ditto . .	When the words are spoken, or, if the words are not actionable in themselves, when the special damage complained of results.
26.—For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	Ditto . .	When the loss occurs.
27.—For compensation for inducing a person to break a contract with the plaintiff	Ditto . .	The date of the breach.
28.—For compensation for an illegal, irregular or excessive distress.	Ditto . .	The date of the distress.
29.—For compensation for wrongful seizure of moveable property under legal process.	Ditto . .	The date of the seizure.
30.—Against a carrier for compensation for losing or injuring goods.	Ditto . .	When the loss or injury occurs.

31.—Against

## (The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part IV.—One year—concl'd.</i>	
31.—Against a carrier for compensation for non-delivery of, or delay in delivering, goods.	One year . . .	When the goods ought to be delivered.
	<i>Part V.—Two years.</i>	
32.—Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Two years . . .	When the perversion first becomes known to the person injured thereby.
33.—Under the Legal Representatives' Suits Act, 1855, against an executor.	Ditto . . .	When the wrong complained of is done.
34.—Under the same Act against an administrator.	Ditto . . .	Ditto.
35.—Under the same Act against any other representative.	Ditto . . .	Ditto.
36.—For compensation for any malfeasance, misfeasance or nonfeasance independent of contract and not herein specially provided for.	Ditto . . .	When the malfeasance, misfeasance or nonfeasance takes place.

XII of  
1855.

1908.]

*Limitation.**(The First Schedule.—First Division : Suits.)*THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years.</i>	
37.—For compensation for obstructing a way or a watercourse.	Three years .	The date of the obstruction.
38.—For compensation for diverting a watercourse.	Ditto . .	The date of the diversion.
39.—For compensation for trespass upon immoveable property.	Ditto .	The date of the trespass.
40.—For compensation for infringing copyright or any other exclusive privilege.	Ditto	The date of the infringement.
41.—To restrain waste .	Ditto .	When the waste begins.
42.—For compensation for injury caused by an injunction wrongfully obtained.	Ditto . .	When the injunction ceases.
43.—Under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets.	Ditto . .	The date of the payment or distribution.

44.—By

27

## (The First Schedule.—First Division : Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
44.—By a ward who has attained majority, to set aside a transfer of property by his guardian.	Three years .	When the ward attains majority.
45.—To contest an award under any of the following Regulations of the Bengal Code :—	Ditto . .	The date of the final award or order in the case.
The Bengal Land-revenue Settlement Regulation, 1822.		VII of 1822.
The Bengal Land-revenue Settlement Regulation, 1825.		IX of 1825.
The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.		IX of 1833.
46.—By a party bound by such award to recover any property comprised therein.	Ditto . .	The date of the final award or order in the case.

1908.]

*Limitation.**(The First Schedule.—First Division : Suits.)*THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
V of 1898.  Bom. II of 1906.  47.—By any person bound by an order respecting the possession of immoveable property made under the Code of Criminal Procedure, 1898, or the Mamlatdars' Courts Act, 1906, or by any one claiming under such person, to recover the property comprised in such order.	Three years .	The date of the final order in the case.
48.—For specific moveable property lost, or acquired by theft, or dishonest misappropriation or conversion, or for compensation for wrongfully taking or detaining the same.	Ditto .	When the person having the right to the possession of the property first learns in whose possession it is.
49.—For other specific moveable property, or for compensation for wrongfully taking or injuring or wrongfully detaining the same.	Ditto . .	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.

50.—For

## (The First Schedule.—First Division : Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
50.—For the hire of animals, vehicles, boats or household furniture.	Three years	When the hire becomes payable.
51.—For the balance of money advanced in payment of goods to be delivered.	Ditto	When the goods ought to be delivered.
52.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon.	Ditto	The date of the delivery of, the goods.
53.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Ditto	When the period of credit expires.
54.—For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Ditto	When the period of the proposed bill elapses.
55.—For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Ditto	The date of the sale.

1908.]

*Limitation.**(The First Schedule.—First Division : Suits.)*THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
56.—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Three years .	When the work is done.
57.—For money payable for money lent.	Ditto .	When the loan is made.
58.—Like suit when the lender has given a cheque for the money.	Ditto .	When the cheque is paid.
59.—For money lent under an agreement that it shall be payable on demand.	Ditto .	When the loan is made.
60.—For money deposited under an agreement that it shall be payable on demand, including money of a customer in the hands of his banker so payable.	Ditto .	When the demand is made.
61.—For money payable to the plaintiff for money paid for the defendant.	Ditto .	When the money is paid.

62.—For

## (The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI—Three years—contd.</i>	
62.—For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Three years	When the money is received.
63.—For money payable for interest upon money due from the defendant to the plaintiff.	Ditto	When the interest becomes due.
64.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Ditto	When the accounts are stated in writing signed by the defendant or his agent duly authorized in this behalf, unless where the debt is, by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives.
65.—For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Ditto	When the time specified arrives or the contingency happens.
66.—On a single bond, where a day is specified for payment.	Ditto	The day so specified.
67.—On a single bond, where no such day is specified.	Ditto	The date of executing the bond.

1908.]

*Limitation.**(The First Schedule.—First Division : Suits.)*THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years contd.</i>	
68.—On a bond subject to a condition.	Three years	When the condition is broken.
69.—On a bill of exchange or promissory note payable at a fixed time after date.	Ditto	When the bill or note falls due.
70.—On a bill of exchange payable at sight, or after sight, but not at a fixed time.	Ditto	When the bill is presented.
71.—On a bill of exchange accepted payable at a particular place.	Ditto	When the bill is presented at that place.
72.—On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Ditto	When the fixed time expires.
73.—On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Ditto	The date of the bill or note.
74.—On a promissory note or bond payable by instalments.	Ditto	The expiration of the first term of payment as to the part then payable; and for the other parts, the expiration of the respective terms of payment.

75.—On

*(The First Schedule.—First Division : Suits.)*

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION : SUITS—*contd.*

Description of suit	Period of limitation.	Time from which period begins to run.
<i>Part VI—Three years—contd.</i>		
75.—On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one or more instalments, the whole shall be due.	Three years	When the default is made, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made in respect of which there is no such waiver.
76.—On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Ditto . .	The date of the delivery to the payee.
77.—On a dishonoured foreign bill, where protest has been made and notice given.	Ditto . .	When the notice is given.
78.—By the payee against the drawer of a bill of exchange, which has been dishonoured by non-acceptance.	Ditto . .	The date of the refusal to accept.
79.—By the acceptor of an accommodation-bill against the drawer.	Ditto . .	When the acceptor pays the amount of the bill.
80.—Suit on a bill of exchange, promissory note or bond not herein expressly provided for.	Ditto . .	When the bill, note or bond becomes payable.

81.—By

1908.]

*Limitation.**(The First Schedule.—First Division : Suits.)*THE FIRST SCHEDULE —*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
<i>Part VI.—Three years—contd.</i>		
81.—By a surety against the principal debtor.	Three years .	When the surety pays the creditor
82.—By a surety against a co-surety.	Ditto .	When the surety pays anything in excess of his own share
83.—Upon any other contract to indemnify.	Ditto . .	When the plaintiff is actually damaged.
84.—By an attorney or vakil for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.	Ditto . .	The date of the termination of the suit or business, or (where the attorney or vakil properly discontinues the suit or business) the date of such discontinuance.
85.—For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Ditto .	The close of the year in which the last item admitted or proved is entered in the account ; such year to be computed as in the account.
86.—On a policy of insurance, when the sum assured is payable immediately after proof of the death or loss has been given to or received by the insurers.	Ditto . .	When proof of the death or loss is given or received to or by the insurer, whether by or from the plaintiff, or any other person.

## (The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
87.—By the assured to recover premia paid under a policy voidable at the election of the insurers.	Three years . . .	When the insurers elect to avoid the policy.
88.—Against a factor for an account.	Ditto . . .	When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates
89.—By a principal against his agent for moveable property received by the latter and not accounted for.	Ditto . . .	Ditto.
90.—Other suits by principals against agents for neglect or misconduct.	Ditto . . .	When the neglect or misconduct becomes known to the plaintiff.
91.—To cancel or set aside an instrument not otherwise provided for.	Ditto . . .	When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him.
92.—To declare the forgery of an instrument issued or registered.	Ditto . . .	When the issue or registration becomes known to the plaintiff.

93.—To

1908.]

*Limitation.*

(*The First Schedule.—First Division : Suits.*)

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
93.—To declare the forgery of an instrument attempted to be enforced against the plaintiff.	Three years .	The date of the attempt.
94.—For property which the plaintiff has conveyed while insane.	Ditto .	When the plaintiff is restored to sanity, and has knowledge of the conveyance.
95.—To set aside a decree obtained by fraud, or for other relief on the ground of fraud.	Ditto	When the fraud becomes known to the party wronged.
96.—For relief on the ground of mistake.	Ditto .	When the mistake becomes known to the plaintiff.
97.—For money paid upon an existing consideration which afterwards fails.	Ditto .	The date of the failure.
98.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Ditto .	The date of the trustee's death, or, if the loss has not then resulted, the date of the loss.

## (The First Schedule.—First Division : Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
99.—For contribution by a party who has paid the whole or more than his share of the amount due under a joint decree, or by a sharer in a joint estate who has paid the whole or more than his share of the amount of revenue due from himself and his co-sharers.	Three years	The date of the payment in excess of the plaintiff's own share.
100.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Ditto	When the right to contribution accrues.
101.—For a seaman's wages	Ditto	The end of the voyage during which the wages are earned.
102.—For wages not otherwise expressly provided for by this schedule.	Ditto	When the wages accrue due.
103.—By a Muhammadan for exigible dower ( <i>mu'ajjal</i> ).	Ditto	When the dower is demanded and refused or (where, during the continuance of the marriage, no such demand has been made) when the marriage is dissolved by death or divorce.

104.—By

1908.]

*Limitation.**(The First Schedule.—First Division: Suits.)*THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI.—Three years—contd.</i>	
104.—By a Muhammadan for deferred dower ( <i>mu'wajjal</i> ).	Three years .	When the marriage is dissolved by death or divorce.
105.—By a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	Ditto .	When the mortgagor re-enters on the mortgaged property.
106.—For an account and a share of the profits of a dissolved partnership.	Ditto .	The date of the dissolution.
107.—By the manager of a joint estate of an undivided family for contribution, in respect of a payment made by him on account of the estate.	Ditto .	The date of the payment.
108.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	Ditto .	When the trees are cut down.
109.—For the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant.	Ditto .	When the profits are received.

110.—For

*(The First Schedule.—First Division : Suits.)*THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit	Period of limitation	Time from which period begins to run
	<i>Part VI.—Three years—concl'd.</i>	
110.—For arrears of rent .	Three years .	When the arrears become due.
111.—By a vendor of immoveable property for personal payment of unpaid purchase-money.	Ditto . .	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
112.—For a call by a company registered under any Statute or Act.	Ditto . .	When the call is payable.
113.—For specific performance of a contract.	Ditto . .	The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused.
114.—For the rescission of a contract.	Ditto . .	When the facts entitling the plaintiff to have the contract rescinded first become known to him.
115.—For compensation for the breach of any contract, express or implied, not in writing registered and not herein specially provided for.	Ditto . .	When the contract is broken, or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs, or (where the breach is continuing) when it ceases.

*Part VII.—*

1908.]

*Limitation.**(The First Schedule.—First Division : Suits.)*THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation	Time from which period begins to run.
	<i>Part VII.— Six years.</i>	
116.—For compensation for the breach of a contract in writing registered.	Six years . . .	When the period of limitation would begin to run against a suit brought on a similar contract not registered.
117.—Upon a foreign judgment as defined in the Code of Civil Procedure, 1908.	Ditto . . .	The date of the judgment.
118.—To obtain a declaration that an alleged adoption is invalid, or never, in fact, took place.	Ditto . . .	When the alleged adoption becomes known to the plaintiff.
119.—To obtain a declaration that an adoption is valid.	Ditto . . .	When the rights of the adopted son, as such, are interfered with.
120.—Suit for which no period of limitation is provided elsewhere in this schedule.	Ditto . . .	When the right to sue accrues.
	<i>Part VIII.— Twelve years.</i>	
121.—To avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, or in a patni taluk or other saleable tenure sold for arrears of rent.	Twelve years . . .	When the sale becomes final and conclusive.

122.—Upon

## (The First Schedule.—First Division: Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VIII.— Twelve years— contd.</i>	
122.—Upon a judgment obtained in British India, or a recognisance.	Twelve years . .	The date of the judgment or recognisance.
123.—For a legacy or for a share of a residue bequeathed by a testator, or for a distributive share of the property of an intestate.	Ditto . .	When the legacy or share becomes payable or deliverable.
124.—For possession of an hereditary office.	Ditto . .	When the defendant takes possession of the office adversely to the plaintiff.
		<i>Explanation.</i> —An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed.
125.—Suit during the life of a Hindu or Muhammadan female by a Hindu or Muhammadan who, if the female died at the date of instituting the suit, would be entitled to the possession of land, to have an alienation of such land made by the	Ditto . .	The date of the alienation.

female

1908.]

*Limitation.**(The First Schedule.—First Division : Suits.)*THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit	Period of limitation	Time from which period begins to run.
	<i>Part VIII.— Twelve years— contd.</i>	
female declared to be void except for her life or until her re-marriage.		
126.—By a Hindu governed by the law of the Mitakshara to set aside his father's alienation of ancestral property.	Twelve years	When the alienee takes possession of the property.
127.—By a person excluded from joint family property to enforce a right to share therein.	Ditto	When the exclusion becomes known to the plaintiff.
128.—By a Hindu for arrears of maintenance.	Ditto	When the arrears are payable.
129.—By a Hindu for a declaration of his right to maintenance.	Ditto	When the right is denied.
130.—For the resumption or assessment of rent-free land.	Ditto	When the right to resume or assess the land first accrues.
131.—To establish a periodically recurring right.	Ditto	When the plaintiff is first refused the enjoyment of the right.
132.—To enforce payment of money charged upon immoveable property.	Ditto	When the money sued for becomes due.

*Explanation.—*

*Limitation.*  
(*The First Schedule.—First Division : Suits.*)

[ACT IX

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
<p><i>Explanation.</i>—The allowance and fees respectively called <i>malikana</i> and <i>haggs</i> shall, for the purpose of this article, be deemed to be money charged upon immoveable property.</p>	<p><i>Part VIII.— Twelve years— contd.</i></p>	
<p>133.—To recover moveable property conveyed or bequeathed in trust, deposited or pawned, and afterwards bought from the trustee, depositary or pawnee for a valuable consideration.</p>	<p>Twelve years .</p>	<p>The date of the purchase.</p>
<p>134.—To recover possession of immoveable property conveyed or bequeathed in trust or mortgaged and afterwards transferred by the trustee or mortgagee for a valuable consideration.</p>	<p>Ditto . .</p>	<p>The date of the transfer.</p>

135.—Suit

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
135.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged.	<i>Part VIII.— Twelve years— contd.</i> Twelve years .	When the mortgagor's right to possession determines.
136.—By a purchaser at a private sale for possession of immoveable property sold when the vendor was out of possession at the date of the sale.	Ditto . .	When the vendor is first entitled to possession.
137.—Like suit by a purchaser at a sale in execution of a decree, when the judgment-debtor was out of possession at the date of the sale.	Ditto . .	When the judgment-debtor is first entitled to possession.
138.—Like suit by a purchaser at a sale in execution of a decree, when the judgment-debtor was in possession at the date of the sale.	Ditto . .	The date when the sale becomes absolute.
139.—By a landlord to recover possession from a tenant.	Ditto . .	When the tenancy is determined.

140.—By

## (The First Schedule.—First Division : Suits.)

THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VIII.— Twelve years— conold.</i>	
140.—By a remainderman, a reversioner (other than a landlord) or a devisee, for possession of immoveable property.	Twelve years	When his estate falls into possession.
141.—Like suit by a Hindu or Muhammadan entitled to the possession of immoveable property on the death of a Hindu or Muhammadan female.	Ditto	When the female dies.
142.—For possession of immoveable property when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession.	Ditto	The date of the dispossession or discontinuance.
143.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	Ditto	When the forfeiture is incurred or the condition is broken.
144.—For possession of immoveable property or any interest therein not hereby otherwise specially provided for.	Ditto	When the possession of the defendant becomes adverse to the plaintiff.

1908.]

*Limitation.**(The First Schedule.—First Division : Suits.)*THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part IX.—Thirty years.</i>	
145.—Against a depositary or pawnee to recover moveable property deposited or pawned.	Thirty years .	The date of the deposit or pawn.
146.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged.	Ditto .	When any part of the principal or interest was last paid on account of the mortgage-debt.
146A.—By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession.	Ditto .	The date of the dispossession or discontinuance.
	<i>Part X.—Sixty years.</i>	
147.—By a mortgagee for foreclosure or sale.	Sixty years .	When the money secured by the mortgage becomes due.

148.—Against

*(The First Schedule.—First Division : Suits.)*THE FIRST SCHEDULE—*contd.*FIRST DIVISION : SUITS—*concl'd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part X.—Sixty years—contd.</i>	
148.—Against a mortgagee to redeem or to recover possession of immoveable property mortgaged.	Sixty years .	When the right to redeem or to recover possession accrues :  Provided that all claims to redeem arising under instruments of mortgage of immoveable property situate in Lower Burma which had been executed before the first day of May 1863 shall be governed by the rules of limitation in force in that province immediately before the same day.
149.—Any suit by or on behalf of the Secretary of State for India in Council.	Ditto .	When the period of limitation would begin to run under this Act against a like suit by a private person.

SECOND DIVISION :

1908.]

*Limitation.**(The First Schedule.—Second Division : Appeals )*THE FIRST SCHEDULE—*contd.*

## SECOND DIVISION : APPEALS.

Description of appeal.	Period of limitation.	Time from which period begins to run.
V of 1908. 150.—Under the Code of Criminal Procedure, 1898, from a sentence of death passed by a Court of Session.	Seven days	The date of the sentence.
151.—From a decree or order of any of the High Courts of Judicature at Fort William, Madras and Bombay or the Chief Court of the Punjab or the Chief Court of Lower Burma in the exercise of its original jurisdiction.	Twenty days	The date of the decree or order.
V of 1908. 152.—Under the Code of Civil Procedure, 1908, to the Court of a District Judge.	Thirty days	The date of the decree or order appealed from.
153.—Under the same Code to a High Court from an order of a Subordinate Court refusing leave to appeal to His Majesty in Council.	Ditto	The date of the order.
154.—Under the Code of Criminal Procedure, 1898, to any Court other than a High Court.	Ditto	The date of the sentence or order appealed from.

155.—Under

*Limitation.* [ACT IX  
(*The First Schedule.—Second Division : Appeals.*)

THE FIRST SCHEDULE—*contd.*

SECOND DIVISION : APPEALS—*contd.*

Description of appeal.	Period of limitation.	Time from which period begins to run.
155.—Under the same Code to a High Court, except in the cases provided for by article 150 and article 157.	Sixty days .	The date of the sentence or order appealed from.
156.—Under the Code of Civil Procedure, 1908, to a High Court, except in the cases provided for by article 151 and article 153.	Ninety days .	The date of the decree or order appealed from. V of 1908.
157.—Under the Code of Criminal Procedure, 1898, from an order of acquittal.	Six months .	The date of the order appealed from. V of 1898.

THIRD DIVISION :

1908.]

*Limitation.*

(*The First Schedule.—Third Division : Applications.*)

THE FIRST SCHEDULE—*contd.*

THIRD DIVISION : APPLICATIONS.

Description of application.	Period of limitation.	Time from which period begins to run.
V of 1908. 158.—Under the Code of Civil Procedure, 1908, to set aside an award.	Ten days . . .	When the award is submitted to the Court.
159.—For leave to appear and defend a suit under the summary procedure referred to in section 128 (2) (f) of the same Code.	Ditto . . .	When the summons is served.
160.—For an order under the same Code, to restore to the file an application for review rejected in consequence of the failure of the applicant to appear when the application was called on for hearing.	Fifteen days . . .	When the application for review is rejected.
161.—For a review of judgment by a Provincial Court of Small Causes or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction.	Ditto . . .	The date of the decree or order.
162.—For a review of judgment by any of the High Courts of Judicature at Fort William, Madras and Bombay or the Chief Court of the Punjab or the Chief Court of Lower Burma in the exercise of its original jurisdiction.	Twenty days . . .	Ditto

163.—By

## (The First Schedule.—Third Division : Applications.)

THE FIRST SCHEDULE—*contd.*THIRD DIVISION : APPLICATIONS—*contd.*

Description of application.	Period of limitation.	Time from which period begins to run.
163.—By a plaintiff, for an order to set aside a dismissal for default of appearance or for failure to pay costs of service of process or to furnish security for costs.	Thirty days	The date of the dismissal.
164.—By a defendant, for an order to set aside a decree passed <i>ex parte</i> .	Ditto	The date of the decree or, where the summons was not duly served, when the applicant has knowledge of the decree.
165.—Under the Code of Civil Procedure, 1908, by a person dispossessed of immoveable property and disputing the right of the decree-holder or purchaser at a sale in execution of a decree to be put into possession.	Ditto	The date of the dispossession. <span style="float: right;">V of 1908.</span>
166.—Under the same Code to set aside a sale in execution of a decree.	Ditto	The date of the sale.
167.—Complaining of resistance or obstruction to delivery of possession of immoveable property decreed or sold in execution of a decree.	Ditto	The date of the resistance or obstruction.

1908.]

*Limitation.**(The First Schedule.—Third Division : Applications.)*THE FIRST SCHEDULE—*contd.*THIRD DIVISION : APPLICATIONS—*contd.*

Description of application.	Period of limitation.	Time from which period begins to run.
168.—For the readmission of an appeal dismissed for want of prosecution.	Thirty days	The date of the dismissal.
169.—For the re-hearing of an appeal heard <i>ex parte</i> .	Ditto	The date of the decree in appeal or, where notice of the appeal was not duly served, when the applicant has knowledge of the decree.
170.—For leave to appeal as a pauper.	Ditto	The date of the decree appealed from.
V of 1908. 171.—Under the Code of Civil Procedure, 1908, for an order to set aside an abatement.	Sixty days	The date of the abatement.
172.—Under the same Code by the assignee or the receiver of an insolvent plaintiff or appellant for an order to set aside the dismissal of a suit or an appeal.	Ditto	The date of the order of dismissal.
173.—For a review of judgment except in the cases provided for by article 161 and article 162.	Ninety days	The date of the decree or order.

174.—For

*Limitation.*

[ACT IX

*(The First Schedule.—Third Division : Applications.)*THE FIRST SCHEDULE—*contd.*THIRD DIVISION : APPLICATIONS—*contd.*

Description of application.	Period of limitation.	Time from which period begins to run.
174.—For the issue of a notice under the same Code, to show cause why any payment made out of Court of any money payable under a decree or any adjustment of the decree should not be recorded as certified.	Ninety days .	When the payment or adjustment is made.
175.—For payment of the amount of a decree by instalments.	Six months .	The date of the decree.
176.—Under the same Code to have the legal representative of a deceased plaintiff or of a deceased appellant made a party.	Ditto .	The date of the death of the deceased plaintiff or appellant.
177.—Under the same Code to have the legal representative of a deceased defendant or of a deceased respondent made a party.	Ditto .	The date of the death of the deceased defendant or respondent.
178.—Under the same Code for the filing in Court of an award in a suit made in any matter referred to arbitration by order of the Court, or of an award made in any matter referred to arbitration without the intervention of a Court.	Ditto .	The date of the award.

179.—By

1908.]

*Limitation.**(The First Schedule.—Third Division : Applications.)*THE FIRST SCHEDULE—*contd.*THIRD DIVISION : APPLICATIONS—*contd.*

Description of application.	Period of limitation	Time from which period begins to run.
179.—By a person desiring to appeal under the same Code to His Majesty in Council for leave to appeal.	Six months	The date of the decree appealed from.
180.—By a purchaser of immoveable property at a sale in execution of a decree for delivery of possession.	Three years	When the sale becomes absolute.
181.—Applications for which no period of limitation is provided elsewhere in this schedule or by section 48 of the Code of Civil Procedure, 1908.	Ditto	When the right to apply accrues.
182.—For the execution of a decree or order of any Civil Court not provided for by article 183 or by section 48 of the Code of Civil Procedure, 1908.	Three years ; or, where a certified copy of the decree or order has been registered, six years.	<p>1. The date of the decree or order, or</p> <p>2. (where there has been an appeal) the date of the final decree or order of the Appellate Court, or the withdrawal of the appeal, or</p> <p>3. (where there has been a review of judgment) the date of the decision passed on the review, or</p>

V of  
1908.

4.

## (The First Schedule.—Third Division : Applications.)

THE FIRST SCHEDULE—*contd.*THIRD DIVISION : APPLICATIONS—*contd.*

Description of application.	Period of limitation.	Time from which period begins to run.
182.—For the execution of a decree or order of any Civil Court not provided for by article 183 or by section 48 of the Code of Civil Procedure, 1908— <i>contd.</i>	Three years ; or, where a certified copy of the decree or order has been registered, six years.	<p>4. (where the decree has been amended) the date of amendment, or</p> <p>5. (where the application next hereinafter mentioned has been made) the date of applying in accordance with law to the proper Court for execution, or to take some step in aid of execution of the decree or order, or</p> <p>6. (where the notice next hereinafter mentioned has been issued) the date of issue of notice to the person against whom execution is applied for to show cause why the decree should not be executed against him, when the issue of such a notice is required by the Code of Civil Procedure, 1908, or 1908.</p> <p>7. (where the application is to enforce any payment which the decree or order directs to be made at a certain date) such date.</p> <p><i>Explanation I.</i>—Where the decree or order has been passed severally in favour of more persons than one, distinguishing portions of the subject-matter as payable or deliverable to each, the application mentioned</p>

1908.]

*Limitation.*

*(The First Schedule.—Third Division : Applications.)*

THE FIRST SCHEDULE—*contd.*

THIRD DIVISION : APPLICATIONS—*contd.*

Description of application.	Period of limitation	Time from which period begins to run.
182.—For the execution of a decree or order of any Civil Court not provided for by article 183 or by section 48 of the Code of Civil Procedure, 1908— <i>concl'd.</i>	Three years; or, where a certified copy of the decree or order has been registered, six years.	<p>in clause 5 of this article shall take effect in favour only of such of the said persons or their representatives as it may be made by. But where the decree or order has been passed jointly in favour of more persons than one, such application, if made by any one or more of them, or by his or their representatives, shall take effect in favour of them all.</p> <p>Where the decree or order has been passed severally against more persons than one, distinguishing portions of the subject-matter as payable or deliverable by each, the application shall take effect against only such of the said persons or their representatives as it may be made against. But, where the decree or order has been passed jointly against more persons than one, the application, if made against any one or more of them, or against his or their representatives, shall take effect against them all.</p> <p><i>Explanation II.</i>—"Proper Court" means the Court whose duty it is to execute the decree or order.</p>

183.—To

*Limitation.*

[ACT IX

(*The First Schedule.—Third Division : Applications. The Second Schedule.—Territories referred to in section 31.*)

THE FIRST SCHEDULE—*concl'd.*

THIRD DIVISION : APPLICATIONS—*concl'd.*

Description of application.	Period of limitation.	Time from which period begins to run.
183.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of His Majesty in Council.	Twelve years .	When a present right to enforce the judgment, decree or order accrues to some person capable of releasing the right : Provided that when the judgment, decree or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing signed by the person liable to pay such principal or interest, or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment or the latest of such revivors, payments or acknowledgments, as the case may be.

THE SECOND SCHEDULE.

TERRITORIES REFERRED TO IN SECTION 31.

(*See section 31.*)

The Presidency of Fort St. George.

The Presidency of Bombay.

The Sambalpur District of the Bengal Division of the Presidency of Fort William.

The United Provinces of Agra and Oudh.

Burma.

The Central Provinces.

Ajmer-Merwara.

THE THIRD SCHEDULE.

1908.]

*Limitation.**(The Third Schedule.—Enactments repealed.)*

## THE THIRD SCHEDULE.

## ENACTMENTS REPEALED.

*(See section 32.)*

Year.	No.	Short title.	Extent of repeal.
1877	XV	The Indian Limitation Act, 1877.	The whole.
1877	XVII	The Punjab Courts Act, 1877.	So much as has not been repealed.
1879	XII	The Registration and Limitation Acts Amendment Act, 1879.	In the title the words "and the Limitation Act, 1877", and after section 107, from the words "and whereas" to the end of the Act.
1881	V	The Probate and Administration Act, 1881.	Section 156.
1887	IX	The Provincial Small Cause Courts Act, 1887.	Section 36.
1888	VII	The Civil Procedure Code Amendment Act, 1888.	In the title and in the preamble, the words "and the Indian Limitation Act, 1877", and of section 66 so much as has not been repealed.
1892	VI	The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.	In the title and in the preamble, the words "the Indian Limitation Act, 1877", and section 1.
1899	X	The Carriers Act, 1899.	Section 3.

1900

*Limitation.* [ACT IX, 1908.]

(*The Third Schedule.—Enactments repealed.*)

THE THIRD SCHEDULE—*concl'd.*

ENACTMENTS REPEALED—*concl'd.*

(*See section 32.*)

Year.	No.	Short title	Extent of repeal.
1900	VI	The Lower Burma Courts Act, 1900.	So much of section 47 and the first schedule as relates to the Indian Limitation Act, 1877.
1900	XI	The Indian Limitation Amendment Act, 1900.	The whole.
1906	IV	The Presidency Small Cause Courts Act, 1906.	Section 5.

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

THE INDIAN EXTRADITION ACT, 1903,  
(XV OF 1903.)

(AS MODIFIED UP TO 1<sup>ST</sup> AUGUST, 1915.)

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# THE INDIAN EXTRADITION ACT, 1903. (XV OF 1903.)

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THE FIRST SCHEDULE.—EXTRADITION OFFENCES.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

[*Rep. by Act X of 1914.*]



# ACT No. XV OF 1903.<sup>1</sup>

[4th November 1903.]

An Act to consolidate and amend the law relating to the Extradition and Rendition of Criminals.

33 & 34 Vict.,  
c 52; 36 &  
37 Vict., c  
60; 44 & 45  
Vict., c 69

WHEREAS it is expedient to provide for the more convenient administration in British India of the Extradition Acts, 1870<sup>2</sup> and 1873<sup>2</sup>, and of the Fugitive Offenders Act, 1881<sup>2</sup>;

and whereas it is also expedient to amend the law relating to the extradition of criminals in cases to which the Extradition Acts, 1870 and 1873, do not apply;

It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

1. (1) This Act may be called the Indian Extradition Act, 1903.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of British India (including British Baluchistan, the Santhal Parganas and the Pargana of Spiti); and

(3) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, may direct.<sup>3</sup>

2. In this Act, unless there is anything repugnant to Definitions.  
in the subject or context,—

(a) “European British subject” means a European British subject as defined by the Code

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1901, Pt. V, p. 24; for Report of Select Committee, see *ibid*, 1903, Pt V, p. 469; for Proceedings in Council, see *ibid*, Pt. VI, pp. 151, 163 and 177.

<sup>2</sup> Coll. Stat., Vol. I.

<sup>3</sup> The Act has been declared to come into force from the 1st June 1904, see Gazette of India, 1904, Pt. I, p. 364.

The Act has been declared in force in the Angul District by s 3 of the Angul Laws Regulation, 1913 (III of 1913).

*(Chapter I.—Preliminary. Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.)*

of Criminal Procedure for the time being in force :

- (b) "extradition offence" means any such offence as is described in the first schedule :
- (c) "Foreign State" means a State to which for the time being, the Extradition Acts 1870<sup>1</sup> and 1873,<sup>1</sup> apply :
- (d) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force :
- (e) "offence" includes any act wheresoever committed which would, if committed in British India, constitute an offence : and
- (f) "rules" include prescribed forms.

33 & 34 Vict.,  
c. 52 ; 36 &  
37 Vict., c.  
60

CHAPTER II.<sup>2</sup>

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

**3.** (1) Where a requisition is made to the Government of India or to any Local Government by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in, or who is suspected of being in British India, the Government of India or the Local Government, as the case may be, may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction, to inquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

(2) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

(3) When

<sup>1</sup> Coll. Stat., Vol I.

<sup>2</sup> Chapter II has been declared to have effect in British India as if it were part of the Extradition Act, 1870 (33 & 34 Vict., c. 52) : see Order in Council, dated the 7th March 1904, Gazette of India, 1904, Pt. I, p. 368.

OF 1903.]

*Extradition.*

(Chapter II.—*Surrender of Fugitive Criminals in case of Foreign States.*)

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

(4) If the Magistrate is of opinion that a *prima facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government of India or the Local Government, as the case may be.

(5) If the Magistrate is of opinion that a *prima facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail.

(6) The Magistrate shall report the result of his inquiry to the Government of India or the Local Government, as the case may be, and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Government.

(7) If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order, and the fugitive criminal shall not be surrendered until such question has been decided.

(8) If, upon receipt of such report and statement or upon the decision of any such question, the Government of India or the Local Government, as the case

*Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.)*

case may be, is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

Lawfulness of custody and re-taking under warrant for surrender.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Discharge of fugitive criminal committed to prison after two months.

(10) If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Government of India or the Local Government, as the case may be, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Magistrate to issue warrant of arrest in certain cases

4. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information of complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Local Government.

(3) A

OF 1903.]

*Extradition.*

(Chapter II.—Surrender of Fugitive Criminals in case of Foreign States. Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)

(3) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (1).

Person arrested not to be detained unless order received.

(4) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the crime of which he is accused or has been convicted.

Bail.

5. (1) If the Government of India or any Local Government is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, it may, if it think fit, refuse to issue any order under section 3, sub-section (1).

Power of Government to refuse to issue order under section 3 when crime of political character.

(2) The Government of India or the Local Government may also at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

Power of Government to discharge any person in custody at any time.

6. The expressions "the Police Magistrate" and "the Secretary of State" in section 3 of the Extradition Act, 1870,<sup>1</sup> shall be read as referring respectively to the Magistrate directed to inquire into a case under section 3 of this Act, and to the Government of India or the Local Government, as the case may be.

References to "Police Magistrate" and "Secretary of State" in section 3 of Extradition Act, 1870.

33 & 34 Vict.,  
c. 52.

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

7. (1) Where an extradition offence has been committed

Issue of warrant by

<sup>1</sup> Coll. Stat., Vol. I.

*(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)*

Political Agents in certain cases.

committed or is supposed to have been committed by a person, not being a European British subject, in the territories of any State not being a Foreign State and such person escapes into or is in British India and the Political Agent in or for such State issues a warrant, addressed to the District Magistrate of any district in which such person is believed to be <sup>1</sup>[or if such person is believed to be in any Presidency-town to the Chief Presidency Magistrate of such town], for his arrest and delivery at a place and to a person or authority indicated in the warrant, such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Execution of such warrant

(2) A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall <sup>1</sup>[be produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, who shall record any statement made by him; such accused person shall then], unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Proclamation and attachment in case of persons absconding.

(3) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate <sup>1</sup>[or Chief Presidency Magistrate] under this section as if the warrant had been issued by himself.

Release on giving security.

8. (1) Where a Political Agent has directed by endorsement on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate

<sup>1</sup>These words were inserted by section 2 of the Indian Extradition (Amendment) Act, 1913 (1 of 1913), General Acts, Vol. VII.

OF 1903.]                      *Extradition.*

(Chapter III.—*Surrender of Fugitive Criminals in case of States other than Foreign States.*)

Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

(2) When security is taken under this section, the Magistrate shall certify the fact to the Political Agent who issued the warrant, and shall retain the bond. Magistrate to retain bond.

(3) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorized by the Political Agent to take him into custody. Re-arrest in case of default.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties. Deposit in lieu of bond, and forfeiture of bonds.

<sup>1</sup>[8A. Notwithstanding anything contained in section 7, sub-section (2) or in section 8, when an accused person arrested in accordance with the provisions of section 7 is produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, and the statement (if any) of such accused person has been recorded, such Magistrate may, if he thinks fit, before proceeding further report the case to the Local Government and, pending the receipts of orders on such report, may detain such accused person in custody or release him on his executing a bond with sufficient sureties for his attendance when required.] Power to report case for orders of Local Government.

9. Where a requisition is made to the Government of India or to any Local Government by or on behalf of any State not being a Foreign State, for the surrender Requisitions by States not being foreign States.

<sup>1</sup>Section 8A was inserted by section 3 of the Indian Extradition (Amendment) Act, 1913 (I of 1913), General Acts, Vol. VII.

*(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)*

render of any person accused of having committed an offence in the territories of such State, such requisition shall (except in so far as relates to the taking of evidence to show that the offence is of a political character or is not an extradition crime) be dealt with in accordance with the procedure prescribed by section 3 for requisitions made by the Government of any Foreign State as if it were a requisition made by any such Government under that section :

Provided that, if there is a Political Agent in or for any such State, the requisition shall be made through such Political Agent.

Power to  
Magistrates  
to issue  
warrants of  
arrest in  
certain cases.

**10.** (1) If it appears to any Magistrate of the first class or any Magistrate empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in any State not being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of  
warrant to be  
reported  
forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section, if the offence appears or is alleged to have been committed in the territories of a State for which there is a Political Agent, to such Political Agent and in other cases to the Local Government.

Limit of time  
of detention  
of person  
arrested.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Local Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

(4) In

*(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States).*

(4) In the case of a person arrested or detained <sup>Bail.</sup> under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the offence with which he is charged.

11. (1) A person accused of an offence committed in British India, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in British India, shall not be surrendered in compliance with a warrant issued by a Political Agent under section 7 or a requisition made by or on behalf of any State not being a Foreign State under section 9, except on the condition that such person be re-surrendered to the Government of India or the Local Government, as the case may be, on the termination of his trial for the offence for which his surrender has been asked: <sup>Surrender of person accused of, or undergoing sentence for, offence in British India.</sup>

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

(2) On the surrender of a person undergoing sentence under a conviction in British India his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender. <sup>Suspension of sentence on surrender.</sup>

12. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any State, not being a Foreign State, has escaped into or is in British India before his sentence has expired. <sup>Application of Chapter to convicted persons.</sup>

13. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall <sup>Abetment and attempt.</sup>

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)

shall be liable to be arrested and surrendered accordingly.

Lawfulness of custody and re-taking under warrant issued under Chapter.

14. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Power of Government to stay proceedings and discharge person in custody.

15. The Government of India or the Local Government may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

Application of Chapter to offences committed before its commencement.

16. The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Act, and to an offence in respect of which a Court of British India has concurrent jurisdiction.

Receipt in evidence of exhibits, depositions and other documents.

17. (1) In any proceedings under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.

Authentication of the same.

(2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside British India, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated,—

(a) if the warrant purports to be signed by a Judge, Magistrate or officer of the State where the same was issued or acting in or for such State :

(b) if

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States. Chapter IV.—Rendition of Fugitive Offenders in His Majesty's Dominions.)

- (b) if the depositions or statements or copies thereof purport to be certified, under the hand of a Judge, Magistrate or officer of the State where the same were taken, or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require :
- (c) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State :
- (d) if the warrants, depositions, statements, copies, certificates and judicial documents as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

(3) For the purposes of this section "warrant" includes any judicial document authorizing the arrest of any person accused or convicted of an offence. Definition of "warrant."

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies and the provisions of this Act shall be modified accordingly. Chapter not to derogate from treaties.

#### CHAPTER IV.<sup>1</sup>

##### RENDITION OF FUGITIVE OFFENDERS IN HIS MAJESTY'S DOMINIONS.

19. For the purpose of applying and carrying into Application of Fugitive

<sup>1</sup> An order in Council dated 7th March 1904, has declared that this Chapter shall be recognized and given effect to throughout His Majesty's Dominions and on the high seas as if it were a part of the Fugitive Offenders Act 1851 (44 & 45 Vict., c. 69).

*(Chapter IV.—Rendition of Fugitive Offenders in His Majesty's Dominions. Chapter V.—Offences committed at Sea.)*

Offenders  
Act, 1881.

into effect in British India the provisions of the Fugitive Offenders Act, 1881,<sup>1</sup> the following provisions are hereby made :—

44 & 45 Vict.  
c. 69

- (a) the powers conferred on "Governors" of British possessions may be exercised by any Local Government :
- (b) the powers conferred on a "Superior Court" may be exercised by any Judge of a High Court :
- (c) the powers conferred on a "Magistrate" may be exercised by any Magistrate of the first class or by any Magistrate empowered by the Local Government<sup>2</sup> in that behalf : and
- (d) the offences committed in British India to which the Act applies, are piracy, treason, and any offence punishable under the Indian Penal Code<sup>3</sup> with rigorous imprisonment for a term of twelve months or more or with any greater punishment.

XLV of 1860.

CHAPTER V.

OFFENCES COMMITTED AT SEA.

Requisition  
for surrender  
in case of  
offence  
committed  
at Sea.

20. Where the Government of any State outside India makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of British India, the Local Government and any Magistrate having jurisdiction in such port and authorized by the Local Government in this behalf may exercise the powers conferred by this Act.

CHAPTER VI

<sup>1</sup> Coll. Stat., Vol. I

<sup>2</sup> For notification (1) by the Government of Madras in respect of the City of Madras, see Mad. R. and O. (2) by the Government of Bombay, see Bombay Government Gazette, 1912, Pt. I, p. 982,

<sup>3</sup> General Acts, Vol. I.

OF 1903.]

*Extradition.*

(Chapter VI.—*Execution of Commissions issued by Criminal Courts outside British India.* Chapter VII.—*Supplemental.*)

CHAPTER VI.

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL  
COURTS OUTSIDE BRITISH INDIA.

21. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any country or place outside British India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding :

Execution of  
commissions  
issued by  
Criminal  
Courts outside  
British India.

Provided that this section shall not apply when the evidence is required for a Court or tribunal in any State outside India other than a British Court and the offence is of a political character.

CHAPTER VII.

SUPPLEMENTAL.

22. (1) The Governor General in Council may make rules<sup>1</sup> to carry out the purposes of this Act.

Power to  
make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as are entitled to receive them ;

(b) the seizure and disposition of any property which is the subject of, or required for proof

<sup>1</sup> For rules see Gazette of India, 1904, Pt. I, p. 364, also Gen. S. R. and O.

(Chapter VII.—Supplemental.)

proof of, any alleged offence to which this Act applies ;

(c) the pursuit and arrest in British India, by officers of the Government or other persons authorised in this behalf, of persons accused of offences committed elsewhere ; and

(d) the procedure and practice to be observed in extradition proceedings.

(3) Rules made under this section shall be published in the Gazette of India and shall thereupon have effect as if enacted by this Act.

Detention of persons arrested under section 54, clause seventhly, Act V, 1898.

**23.** Notwithstanding anything in the Code of Criminal Procedure, 1898,<sup>1</sup> any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause seventhly, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 10.

**24.** [Repeals.] *Rep. by the Repealing and Amending Act, 1914 (X of 1914).*

THE FIRST SCHEDULE

<sup>1</sup> Genl Acts, Vol. V

OF 1903.]

*Extradition.*

*The First Schedule.—Extradition offences.)*

THE FIRST SCHEDULE.

EXTRADITION OFFENCES.

[*See section 2, clause (b), and Chapter III (Surrender of Fugitive Criminals in case of States other than Foreign States).*]

[The sections referred to are the sections of the Indian Penal Code.]

Frauds upon creditors (section 206).

Resistance to arrest (section 224).

Offences relating to coin and stamps (sections 230 to 263A).

Culpable homicide (sections 299 to 304).

Attempt to murder (section 307).

Thagi (sections 310, 311).

Causing miscarriage, and abandonment of child (sections 312 to 317).

Causing hurt (sections 323 to 333).

Wrongful confinement (sections 347, 348).

Kidnapping and slavery (sections 360 to 373).

Rape and unnatural offences (sections 375 to 377).

Theft, extortion, robbery, etc. (sections 378 to 414).

Cheating (sections 415 to 420).

Fraudulent deeds, etc. (sections 421 to 424).

Mischief (sections 425 to 440).

Lurking house-trespass (sections 443, <sup>1</sup>[444]).

Forgery, using forged documents, etc. (sections 463 to 477A).

Desertion from any body of Imperial Service Troops.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assault

<sup>1</sup> These figures were substituted for the figures "446" by section 2 and schedule I of the Repealing and Amending Act, 1914 (X of 1914).

*Extradition.* [ACT XV OF 1903.]

(*The First Schedule.—Extradition offences. The Second Schedule.—Enactments repealed.*)

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Any offence against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Governor General in Council by notification in the Gazette of India either generally for all States or specially for any one or more States. XLV of 1860.

## THE SECOND SCHEDULE.

### ENACTMENTS REPEALED.

[*Rep. by the Repealing and Amending Act, 1914*  
(*X of 1914*).]

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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THE INDIAN EXTRADITION ACT, 1903,  
(XV OF 1903,)

(AS MODIFIED UP TO 1<sup>ST</sup> AUGUST, 1915.)

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**THE INDIAN EXTRADITION ACT, 1903.**  
**(XV OF 1903.)**

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[*Rep. by Act X of 1914.*]

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# ACT No. XV OF 1903.<sup>1</sup>

[4th November 1903.]

An Act to consolidate and amend the law relating to the Extradition and Rendition of Criminals.

WHEREAS it is expedient to provide for the more convenient administration in British India of the Extradition Acts, 1870<sup>2</sup> and 1873<sup>3</sup>, and of the Fugitive Offenders Act, 1881<sup>3</sup>;

33 & 34 Vict.,  
c 52, 36 &  
37 Vict., c  
60; 44 & 45  
Vict., c 69.

and whereas it is also expedient to amend the law relating to the extradition of criminals in cases to which the Extradition Acts, 1870 and 1873, do not apply;

It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

1. (1) This Act may be called the Indian Extradition Act, 1903.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of British India (including British Baluchistan, the Santhal Parganas and the Pargana of Spiti); and

(3) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, may direct.<sup>3</sup>

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “European British subject” means a European British subject as defined by the Code

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p 24; for Report of Select Committee, *see* *ibid*, 1903, Pt. V, p. 469; for Proceedings in Council, *see* *ibid*, Pt. VI, pp 151, 163 and 177.

<sup>2</sup> Coll. Stat., Vol. I.

<sup>3</sup> The Act has been declared to come into force from the 1st June 1904, *see* Gazette of India, 1904, Pt. I, p. 364.

The Act has been declared in force in the Angul District by s 3 of the Angul Laws Regulation, 1913 (III of 1913).

*(Chapter I.—Preliminary. Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.)*

of Criminal Procedure for the time being in force:

- (b) "extradition offence" means any such offence as is described in the first schedule:
- (c) "Foreign State" means a State to which for the time being, the Extradition Acts 1870<sup>1</sup> and 1873,<sup>1</sup> apply:
- (d) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force:
- (e) "offence" includes any act wheresoever committed which would, if committed in British India, constitute an offence: and 33 & 34 Vict.,  
c. 52; 36 &  
37 Vict., c.  
60.
- (f) "rules" include prescribed forms.

CHAPTER II.<sup>2</sup>

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

Requisition  
for surrender.

3. (1) Where a requisition is made to the Government of India or to any Local Government by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in, or who is suspected of being in British India, the Government of India or the Local Government, as the case may be, may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction, to inquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

Summons or  
warrant for  
arrest.

(2) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

(3) When

<sup>1</sup> Coll. Stat., Vol. I.

<sup>2</sup> Chapter II has been declared to have effect in British India as if it were part of the Extradition Act, 1870 (33 & 34 Vict., c. 52): see Order in Council, dated the 7th March 1904, Gazette of India, 1904, Pt. I, p. 363.

OF 1903.]

*Extradition.*

(Chapter II.—*Surrender of Fugitive Criminals in case of Foreign States.*)

(3) When such criminal appears or, is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime. Inquiry by Magistrate.

(4) If the Magistrate is of opinion that a *prima facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government of India or the Local Government, as the case may be. Committal.

(5) If the Magistrate is of opinion that a *prima facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail. Bail.

(6) The Magistrate shall report the result of his inquiry to the Government of India or the Local Government, as the case may be, and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Government. Magistrate's report.

(7) If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order, and the fugitive criminal shall not be surrendered until such question has been decided. Reference to High Court if Government thinks necessary.

(8) If, upon receipt of such report and statement or upon the decision of any such question, the Government of India or the Local Government, as the case Warrant for surrender.

*Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.)*

case may be, is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

Lawfulness of custody and re-taking under warrant for surrender.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Discharge of fugitive criminal committed to prison after two months.

(10) If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Government of India or the Local Government, as the case may be, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Magistrate to issue warrant of arrest in certain cases.

4. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information of complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Local Government.

OF 1903.]

### *Extradition.*

(Chapter II.—*Surrender of Fugitive Criminals in case of Foreign States.* Chapter III.—*Surrender of Fugitive Criminals in case of States other than Foreign States.*)

(3) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (1).

Person arrested not to be detained unless order received.

(4) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the crime of which he is accused or has been convicted.

Bail.

5. (1) If the Government of India or any Local Government is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, it may, if it think fit, refuse to issue any order under section 3, sub-section (1).

Power of Government to refuse to issue order under section 3 when crime of political character.

(2) The Government of India or the Local Government may also at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

Power of Government to discharge any person in custody at any time.

33 & 34 Vict.,  
c. 52.

6. The expressions "the Police Magistrate" and "the Secretary of State" in section 3 of the Extradition Act, 1870,<sup>1</sup> shall be read as referring respectively to the Magistrate directed to inquire into a case under section 3 of this Act, and to the Government of India or the Local Government, as the case may be.

References to "Police Magistrate" and "Secretary of State" in section 3 of Extradition Act, 1870.

## CHAPTER III.

### SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

7. (1) Where an extradition offence has been committed

Issue of warrant by

<sup>1</sup> Coll. Stat., Vol. I.

*(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)*

Political  
Agents in  
certain cases

committed or is supposed to have been committed by a person, not being a European British subject, in the territories of any State not being a Foreign State and such person escapes into or is in British India and the Political Agent in or for such State issues a warrant, addressed to the District Magistrate of any district in which such person is believed to be <sup>1</sup>[or if such person is believed to be in any Presidency-town to the Chief Presidency Magistrate of such town], for his arrest and delivery at a place and to a person or authority indicated in the warrant, such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Execution of  
such warrant

(2) A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall <sup>1</sup>[be produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, who shall record any statement made by him ; such accused person shall then], unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Proclamation  
and attach-  
ment in case  
of persons  
absconding

(3) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate <sup>1</sup>[or Chief Presidency Magistrate] under this section as if the warrant had been issued by himself.

Release on  
giving  
security.

8. (1) Where a Political Agent has directed by endorsement on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the  
Magistrate

<sup>1</sup>These words were inserted by section 2 of the Indian Extradition (Amendment) Act, 1913 (1 of 1913), General Acts, Vol. VII.

OF 1903.]

*Extradition.*

*(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)*

Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

(2) When security is taken under this section, the Magistrate shall certify the fact to the Political Agent who issued the warrant, and shall retain the bond. Magistrate to retain bond.

(3) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorized by the Political Agent to take him into custody. Re-arrest in case of default.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties. Deposit in lieu of bond, and forfeiture of bonds.

<sup>1</sup>[8A. Notwithstanding anything contained in section 7, sub-section (2) or in section 8, when an accused person arrested in accordance with the provisions of section 7 is produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, and the statement (if any) of such accused person has been recorded, such Magistrate may, if he thinks fit, before proceeding further report the case to the Local Government and, pending the receipts of orders on such report, may detain such accused person in custody or release him on his executing a bond with sufficient sureties for his attendance when required.] Power to report case for orders of Local Government.

9. Where a requisition is made to the Government of India or to any Local Government by or on behalf of any State not being a Foreign State, for the surrender Requisitions by States not being foreign States.

<sup>1</sup>Section 8A was inserted by section 3 of the Indian Extradition (Amendment) Act, 1913 (I of 1913), General Acts, Vol. VII.

*(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)*

render of any person accused of having committed an offence in the territories of such State, such requisition shall (except in so far as relates to the taking of evidence to show that the offence is of a political character or is not an extradition crime) be dealt with in accordance with the procedure prescribed by section 3 for requisitions made by the Government of any Foreign State as if it were a requisition made by any such Government under that section :

Provided that, if there is a Political Agent in or for any such State, the requisition shall be made through such Political Agent.

Power to  
Magistrates  
to issue  
warrants of  
arrest in  
certain cases.

10. (1) If it appears to any Magistrate of the first class or any Magistrate empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in any State not being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of  
warrant to be  
reported  
forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section, if the offence appears or is alleged to have been committed in the territories of a State for which there is a Political Agent, to such Political Agent and in other cases to the Local Government.

Limit of time  
of detention  
of person  
arrested.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Local Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

(4) In

OF 1903.]

*Extradition.*

*(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States).*

(4) In the case of a person arrested or detained <sup>Bail.</sup> under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the offence with which he is charged.

11. (1) A person accused of an offence committed in British India, not being the offence for which his <sup>Surrender of person accused of, or undergoing sentence for, offence in British India.</sup> surrender is asked, or undergoing sentence under any conviction in British India, shall not be surrendered in compliance with a warrant issued by a Political Agent under section 7 or a requisition made by or on behalf of any State not being a Foreign State under section 9, except on the condition that such person be re-surrendered to the Government of India or the Local Government, as the case may be, on the termination of his trial for the offence for which his surrender has been asked:

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

(2) On the surrender of a person undergoing <sup>Suspension of sentence on surrender.</sup> sentence under a conviction in British India his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

12. The provisions of this Chapter with reference <sup>Application of Chapter to convicted persons.</sup> to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any State, not being a Foreign State, has escaped into or is in British India before his sentence has expired.

13. Every person who is accused or convicted of <sup>Abetment and attempt.</sup> abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)

shall be liable to be arrested and surrendered accordingly.

Lawfulness of custody and re-taking under warrant issued under Chapter.

14. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Power of Government to stay proceedings and discharge person in custody.

15. The Government of India or the Local Government may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

Application of Chapter to offences committed before its commencement.

16. The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Act, and to an offence in respect of which a Court of British India has concurrent jurisdiction.

Receipt in evidence of exhibits, depositions and other documents.

17. (1) In any proceedings under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.

Authentication of the same.

(2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside British India, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated,—

(a) if the warrant purports to be signed by a Judge, Magistrate or officer of the State where the same was issued or acting in or for such State :

(b) if

(Chapter III.—*Surrender of Fugitive Criminals in case of States other than Foreign States. Chapter IV.—Rendition of Fugitive Offenders in His Majesty's Dominions.*)

- (b) if the depositions or statements or copies thereof purport to be certified, under the hand of a Judge, Magistrate or officer of the State where the same were taken, or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require :
- (c) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State :
- (d) if the warrants, depositions, statements, copies, certificates and judicial documents as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

(3) For the purposes of this section "warrant" includes any judicial document authorizing the arrest of any person accused or convicted of an offence. Definition of "warrant."

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies and the provisions of this Act shall be modified accordingly. Chapter not to derogate from treaties.

#### CHAPTER IV.<sup>1</sup>

#### RENDITION OF FUGITIVE OFFENDERS IN HIS MAJESTY'S DOMINIONS.

19. For the purpose of applying and carrying into Application of Fugitive

<sup>1</sup> An order in Council dated 7th March 1904, has declared that this Chapter shall be recognized and given effect to throughout His Majesty's Dominions and on the high seas as if it were a part of the Fugitive Offenders Act 1881 (44 & 45 Vict., c. 69).

*(Chapter IV.—Rendition of Fugitive Offenders in His Majesty's Dominions. Chapter V.—Offences committed at Sea.)*

Offenders  
Act, 1881.

into effect in British India the provisions of the Fugitive Offenders Act, 1881,<sup>1</sup> the following provisions are hereby made :—

- (a) the powers conferred on “Governors” of British possessions may be exercised by any Local Government :
- (b) the powers conferred on a “Superior Court” may be exercised by any Judge of a High Court :
- (c) the powers conferred on a “Magistrate” may be exercised by any Magistrate of the first class or by any Magistrate empowered by the Local Government<sup>2</sup> in that behalf : and
- (d) the offences committed in British India to which the Act applies, are piracy, treason, and any offence punishable under the Indian Penal Code<sup>3</sup> with rigorous imprisonment for a term of twelve months or more or with any greater punishment.

CHAPTER V.

OFFENCES COMMITTED AT SEA.

Requisition  
for surrender  
in case of  
offence  
committed  
at Sea.

20. Where the Government of any State outside India makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of British India, the Local Government and any Magistrate having jurisdiction in such port and authorized by the Local Government in this behalf may exercise the powers conferred by this Act.

CHAPTER VI

<sup>1</sup> Coll. Stat., Vol. I.

<sup>2</sup> For notification (1) by the Government of Madras in respect of the City of Madras, see Mad. R. and O (2) by the Government of Bombay, see Bombay Government Gazette, 1912, Pt. I, p. 982.

<sup>3</sup> General Acts, Vol. I.

OF 1903.]

*Extradition.*

(*Chapter VI.—Execution of Commissions issued by Criminal Courts outside British India. Chapter VII.—Supplemental.*)

CHAPTER VI.

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL  
COURTS OUTSIDE BRITISH INDIA.

21. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any country or place outside British India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding :

Execution of  
commissions  
issued by  
Criminal  
Courts outside  
British India.

Provided that this section shall not apply when the evidence is required for a Court or tribunal in any State outside India other than a British Court and the offence is of a political character.

CHAPTER VII.

SUPPLEMENTAL.

22. (1) The Governor General in Council may make rules<sup>1</sup> to carry out the purposes of this Act.

Power to  
make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as are entitled to receive them ;
- (b) the seizure and disposition of any property which is the subject of, or required for proof

<sup>1</sup> For rules see Gazette of India, 1904, Pt I, p. 364; also Gen. S. R. and O.

*Extradition.* [ ACT XV  
(Chapter VII.—Supplemental.)

proof of, any alleged offence to which this Act applies ;

(c) the pursuit and arrest in British India, by officers of the Government or other persons authorised in this behalf, of persons accused of offences committed elsewhere ; and

(d) the procedure and practice to be observed in extradition proceedings.

(3) Rules made under this section shall be published in the Gazette of India and shall thereupon have effect as if enacted by this Act.

Detention of  
persons  
arrested un-  
der section 54,  
clause sev-  
enthly, Act V,  
1898

**23.** Notwithstanding anything in the Code of Criminal Procedure, 1898,<sup>1</sup> any person arrested with-  
out an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause  
*seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 10. V of 1898.

**24.** [*Repeals.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914).*

THE FIRST SCHEDULE

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<sup>1</sup> Genl. Acts, Vol. V

OF 1903.]

*Extradition.*

*The First Schedule.—Extradition offences.)*

THE FIRST SCHEDULE.

EXTRADITION OFFENCES.

[*See section 2, clause (b), and Chapter III (Surrender of Fugitive Criminals in case of States other than Foreign States).*]

[The sections referred to are the sections of the Indian Penal Code.]

Frauds upon creditors (section 206).

Resistance to arrest (section 224).

Offences relating to coin and stamps (sections 230 to 263A).

Culpable homicide (sections 299 to 304).

Attempt to murder (section 307).

Thagi (sections 310, 311).

Causing miscarriage, and abandonment of child (sections 312 to 317).

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Kidnapping and slavery (sections 360 to 373).

Rape and unnatural offences (sections 375 to 377).

Theft, extortion, robbery, etc. (sections 378 to 414).

Cheating (sections 415 to 420).

Fraudulent deeds, etc. (sections 421 to 424).

Mischief (sections 425 to 440).

Lurking house-trespass (sections 443, <sup>1</sup>[444]).

Forgery, using forged documents, etc. (sections 463 to 477A).

Desertion from any body of Imperial Service Troops.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assault

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<sup>1</sup> These figures were substituted for the figures "446" by section 2 and schedule I of the Repealing and Amending Act, 1914 (X of 1914).

*Extradition.* [ACT XV OF 1903.]

(*The First Schedule.—Extradition offences. The  
Second Schedule.—Enactments repealed.*)

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Any offence against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Governor General in Council by notification in the Gazette of India either generally for all States or specially for any one or more States.

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## THE SECOND SCHEDULE.

### ENACTMENTS REPEALED.

[*Rep. by the Repealing and Amending Act, 1914  
(X of 1914).*]

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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THE INDIAN ARMY ACT, 1911.  
(ACT No. VIII OF 1911.)

AS MODIFIED UP TO THE 1ST AUGUST, 1918.

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CALCUTTA  
SUPERINTENDENT GOVERNMENT PRINTING, INDIA  
1918

[*Price annas fourteen.*]



## STATEMENT OF REPEALS AND AMENDMENTS.

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Title repealed in part, Act XI of 1918, s 26 and Schedule.  
Preamble amended, Act XI of 1918, s. 2.  
Section 2 amended, Act XI of 1918, s. 2.  
Section 2 repealed in part, Act XI of 1918, s. 26 and Schedule.  
Section 3 amended, Act XI of 1918, s 2.  
Section 6 amended, Act XI of 1918, s. 3.  
Section 7 amended, Act XI of 1918, ss 2 and 4.  
Section 9 amended, Act XI of 1918, s. 5  
Section 10 repealed in part, Act XI of 1918, s 26 and Schedule.  
Section 14 amended, Act XI of 1918, ss. 2 and 6.  
Section 15 repealed, Act XI of 1918, s. 26 and Schedule.  
Section 18 amended, Act XI of 1918, s 7. .  
Section 18 repealed in part, Act XI of 1918, s 26 and Schedule.  
Section 19 amended, Act XI of 1918, s 6  
Section 21 amended, Act XI of 1918, ss 2 and 6.  
Section 22 amended, Act XI of 1918, s 2.  
Section 23 amended, Act XI of 1918, s 6.  
Section 25 amended, Act XI of 1918, s 8  
Section 27 amended, Act XI of 1918, s. 9  
Section 39A inserted, Act XI of 1918, s. 10.  
Section 43 amended, Act XI of 1918, s 11  
Section 43 repealed in part, Act XI of 1918, s 26 and Schedule.  
Section 47 amended, Act XI of 1918, s. 12. .  
Section 49A inserted, Act XI of 1918, s 13  
Section 50 repealed in part, Act XI of 1918, s. 26 and Schedule.  
Section 50 amended, Act XI of 1918, s. 14  
Section 52 amended, Act X of 1917, s. 2  
Section 52A inserted, Act X of 1917, s. 3.  
Section 60 amended, Act XI of 1918, s. 2.  
Section 74 amended, Act XI of 1918, s 15  
Section 76 repealed in part, Act X of 1917, s. 4  
Section 79 amended Act XI of 1918, s. 2.  
Section 86 amended, Act XI of 1918, s. 16.  
Section 91 amended, Act XI of 1918, s. 17.  
Section 91A inserted, Act XI of 1918, s. 18  
Section 93 repealed in part, Act XI of 1918, s 26 and Schedule.  
Section 98 amended, Act XI of 1918, s. 19.  
Section 99A inserted, Act XI of 1918, s. 20.  
Section 102 amended, Act XI of 1918, s. 6.  
Section 107 amended, Act XI of 1918, s 21.  
Section 108 amended, Act XI of 1918, s 6.  
Section 108A inserted, Act XI of 1918, s. 22  
Section 111A inserted, Act XI of 1918, s 23  
Section 112 substituted, Act XI of 1918, s. 24  
Section 113 amended, Act X of 1917, s. 6.  
Section 114 substituted, Act XV of 1914, s. 2  
Section 126 repealed in part, Act XI of 1918, s 26 and Schedule.  
Sections 126A and 126B inserted, Act XI of 1918, s. 25.



# THE INDIAN ARMY ACT, 1911

## (VIII OF 1911).

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**THE SCHEDULE.****REPEAL OF ENACTMENTS.**



# ACT No. VIII OF 1911.<sup>1</sup>

[16th March, 1911.]

An Act to consolidate and amend the law relating to the government of His Majesty's \*<sup>2</sup> Indian Forces.

[As modified up to the 1st August, 1918.]

WHEREAS it is expedient to consolidate and amend the law relating to the government of the <sup>3</sup>[Indian] officers, soldiers and other persons in His Majesty's Indian Forces; It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

1. (1) This Act may be called the Indian Army Act, 1911. Short title  
and com-  
mencement.

(2) It shall come into force on such <sup>4</sup>date as the Governor General in Council may, by notification in the Gazette of India, direct in this behalf.

### *Application of Act.*

2. (1) The following persons shall be subject to this Act, namely :— Persons  
subject to  
Act.

(a) <sup>3</sup>[Indian] officers and warrant officers;

(b) persons

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1910, Pt. V, p. 140, for Report of Select Committee, see *ibid*, 1911, Pt. V, p. 39; and for Proceedings in Council, see *ibid*, 1910, Pt. VI, p. 16, dated 13th August, 1910, and *ibid*, 1911, Pt. VI, pp. 34, 46 and 362.

This Act has been declared in force in British Baluchistan, under s. 3 of the British Baluchistan Laws Regulation, 1913 (II of 1913), see Baluchistan Code

In the Angul District, by the Angul Laws Regulation, 1913 (III of 1913), s. 3.

<sup>2</sup> The word "Native" was repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>3</sup> For the expressions "native" and "a native" wherever they occur in this Act, the expressions "Indian" and "an Indian" were substituted respectively by s. 2 of the Indian Army (Amendment) Act, 1918 (XI of 1918)

<sup>4</sup> The 1st January, 1912, see Gazette of India, 1911, Pt. I, p. 882

*Army.*  
(Chapter I.—Preliminary.)

[ACT VIII

- (b) persons enrolled under this Act;
- (c) persons not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by the Governor General in Council by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, His Majesty's Forces :

\* \* \* \* \*

(2) Every person subject to this Act under sub-section (1), clause (a) or (b), shall remain so subject until duly discharged or dismissed.

Special provision as to rank in certain cases.

3. (1) The Governor General in Council may, by notification, direct that any persons or class of persons subject to this Act under section 2, sub-section (1), clause (c), shall be so subject as '[Indian] officers, warrant officers or non-commissioned officers, and may authorize any officer to give a like direction with respect to any such person and to cancel such direction.

(2) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

Commanding officer of persons subject to military law under section 2, clause (c).

4. Every person subject to this Act under section 2, sub-section (1), clause (c), shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, department or detachment (if any) to which he is attached, and if he is not attached to any corps, department or detachment, under the command of any officer who may for the time being be

<sup>1</sup> For places declared to be frontier posts under this sub-section and section 22, see Gazette of India, 1911, Pt. I, p. 382.

<sup>2</sup> The proviso to sub-section (1) of s. 2 was repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>3</sup> For notification declaring the rank of certain Civil officers when subject to the Act, see Gazette of India, 1912, Pt. I, p. 580, and *ibid*, 1912, Pt. I, pp. 580 and 1048.

<sup>4</sup> See footnote <sup>3</sup> on p. 9, *supra*.

*(Chapter I.—Preliminary.)*

be named as his commanding officer by the officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force :

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

5. (1) The Governor General in Council may, by notification, apply all or any of the provisions of this Act to any force raised and maintained in India under the authority of the Governor General in Council.

Powers to apply Act to certain forces under the Government of India.

(2) While any of the provisions of this Act apply to any such force, the Governor General in Council may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of that force.

6. <sup>1</sup>[(1) Whenever persons subject to this Act are serving—

Officers to exercise powers in certain cases.

- (a) out of India under an officer not subject to the authority of the Governor General in Council, or
- (b) in India under an officer commanding any military organization not in this section specifically named, and being, in the opinion of the Governor General in Council, not less than a brigade,

the Governor General in Council may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding armies, army corps, divisions and brigades, shall, as regards such persons, be exercised.]

(2) The

<sup>1</sup> This sub-section was substituted by s. 3 of the Indian Army (Amendment) Act, 1918 (XI of 1918)

(2) The Governor General in Council may confer such powers either absolutely, or subject to such restrictions, reservations, exceptions and conditions as he may think fit.

*Definitions.*

Definitions.

7. In this Act, unless there is something repugnant in the subject or context,—

(1) “British officer” means a person holding a commission in His Majesty’s land forces :

(2) “<sup>1</sup>[Indian] officer” means a person commissioned, gazetted or in pay as an officer holding <sup>1</sup>[an Indian] rank in His Majesty’s Indian Forces :

(3) “warrant officer” means a person appointed, gazetted or in pay as <sup>1</sup>[an Indian] warrant officer in His Majesty’s Indian Forces :

(4) “non-commissioned officer” means a person attested under this Act holding <sup>1</sup>[an Indian] non-commissioned rank in His Majesty’s Indian Forces, and includes an acting non-commissioned officer :

(5) “officer” means a British officer or <sup>1</sup>[Indian] officer, but does not include a warrant officer or non-commissioned officer :

(6) “commanding officer,” when used in any provision of this Act with reference to any separate portion of His Majesty’s forces or to any department, means the British officer whose duty it is under the regulations of the army, or, in the absence of any such regulation, by the custom of the service, to discharge with respect to that portion of the forces or that department the functions of commanding officer in regard to matters of the description referred to in that provision :

(7) “superior officer,” when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer ; and, as regards persons placed under his orders, a warrant officer or non-commissioned officer subject to the <sup>2</sup>Army Act :

[(8) ‘army,’

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<sup>1</sup> See footnote \* on p. 9, *supra*.

<sup>2</sup> Collection of Statutes, India, Vol I.

44 & 45 Vict.  
c 58

<sup>1</sup>[(8) ‘army,’ ‘army corps,’ ‘divisions’ and ‘brigade’ mean respectively an army, army corps, division or brigade which is under the command of an officer subject to the authority of the Governor General in Council or, when on active service, an army, army corps, division or brigade under the command of an officer holding a commission in His Majesty’s Land Forces.]

(9) “corps” means any separate body of persons subject to this Act or the Army Act which is prescribed as a corps for the purposes of all or any of the provisions of this Act :

(10) “independent brigade” means a brigade which does not form part of a division :

(11) “department” includes any division or branch of a department :

(12) “enemy” includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of a person subject to military law to act :

(13) “active service,” as applied to a person subject to this Act, means the time during which such person is attached to, or forms part of, a force which is engaged in operations against an enemy, or is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country :

(14) “military custody” means the arrest or confinement of a person according to the usages of the service :

(15) “military reward” includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other military pecuniary reward :

(16) “court-martial” means a court-martial held under this Act :

(17) “criminal

<sup>1</sup> This clause was substituted by s. 4 of the Indian Army Amendment Act, 1918 (XI of 1918).

(Chapter I.—Preliminary. Chapter II.—Enrolment and Attestation)

(17) "criminal court" means a court of ordinary criminal justice in British India, or established elsewhere by the authority of the Governor General in Council:

(18) "civil offence" means an offence which, if committed in British India, would be triable by a criminal court:

(19) "offence" means any act or omission punishable under this Act, and includes a civil offence as hereinbefore defined:

(20) "notification" means a notification published in the Gazette of India:

(21) "prescribed" means prescribed by rules made under this Act: and

(22) all words and expressions used herein and defined in the Indian Penal Code<sup>1</sup> and not herein-<sup>Act XLV of 1860</sup> before defined shall be deemed to have the meanings respectively attributed to them by that Code.

## CHAPTER II.

### ENROLMENT AND ATTESTATION.

#### *Enrolment.*

Procedure  
before enrol-  
ling officer.

8. Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

Enrolment.

9. If, after complying with the provisions of section 8, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of

<sup>1</sup> See the revised edition of the Code, as modified up to 1st June, 1910.

*(Chapter II.—Enrolment and Attestation.)*

of service, and if he perceives no impediment, he shall sign <sup>1</sup>[and shall also cause the person to sign] the enrolment paper, and the person shall then be deemed to be enrolled.

10. Every person who has for the space of six months been in the receipt of military pay and been borne on the rolls of any corps or department <sup>2\*</sup> shall be deemed to have been duly enrolled, and shall not be entitled to claim his discharge on the ground of illegality or irregularity in his enrolment.

Presumption  
of enrolment  
in certain  
cases.

*Attestation.*

11. The following persons shall be attested, namely :—

Persons to be  
attested.

- (a) all persons enrolled as combatants;
- (b) all other enrolled persons prescribed by the Governor General in Council.

12. (1) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his corps or such portion thereof or such members of his department as may be present or by any other prescribed person.

Mode of  
attestation.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to His Majesty, His heirs and successors, and that he will serve in His Majesty's Indian Forces and go wherever he is ordered by land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated

<sup>1</sup> These words were inserted by s. 5 of the Indian Army (Amendment) Act, 1918 (XI of 1918)

<sup>2</sup> The words " of which the last-pay statement, if produced, shall be evidence " were repealed by s 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918).

(Chapter III.—Dismissal and Discharge.)

authenticated by the signature of the officer administering the oath or affirmation.

CHAPTER III.

DISMISSAL AND DISCHARGE.

Dismissal by Governor General in Council and Commander-in-Chief in India.

13. The Governor General in Council or the Commander-in-Chief in India may dismiss from the service any person subject to this Act.

Dismissal by officer commanding army, division, brigade, etc.

14. An officer commanding an army, <sup>1</sup>[army corps], division or brigade, or any prescribed officer, may dismiss from the service any person serving under his command other than <sup>2</sup>[an Indian] officer.

15. [*Dismissal of convicts.*] Rep. by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918).

Discharge.

16. The prescribed authority may, in conformity with any rules prescribed in this behalf, discharge from the service any person subject to this Act.

Certificate to person dismissed or discharged.

17. Every enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, in the English language and in the mother tongue of such person (when his mother tongue is not English), setting forth—

(a) the authority dismissing or discharging him;

(b) the cause of his dismissal or discharge;

(c) the full period of his service in the army.

Discharge, etc., out of India.

18. (1) Any person enrolled under this Act who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled, or ordered

<sup>1</sup> These words were inserted by s. 6 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>2</sup> See footnote <sup>3</sup> on p. 9, *supra*.

1911.]

*Army.*

*(Chapter III.—Dismissal and Discharge. Chapter IV.—Summary Reduction and Punishments otherwise than by order of Court-martial.)*

ordered to be discharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(2) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed.

\* \* \* \* \*

<sup>2</sup>[Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of transportation or imprisonment, a portion of such other punishment, may be inflicted before he is sent to India.]

#### CHAPTER IV.

##### SUMMARY REDUCTION AND PUNISHMENTS OTHERWISE THAN BY ORDER OF COURT-MARTIAL.

19. (1) The Commander-in-Chief in India, an officer commanding an army, <sup>3</sup>[army corps], division or brigade, or any prescribed officer, may reduce to a lower grade or to the ranks any non-commissioned officer under his command. Reduction of non-commissioned officers.

(2) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer or, if he has no permanent grade above the ranks, to the ranks.

20. (1) The Commander-in-Chief in India may, subject to the control of the Governor General in Council, specify the minor punishments to which persons subject to this Act shall be liable without the intervention of a court-martial, and the officer Minor punishments

<sup>1</sup> Sub-section (3) was repealed by s 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918)

<sup>2</sup> This proviso was added by s 7 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>3</sup> These words were inserted by s 6 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

(Chapter IV.—Summary Reduction and Punishments otherwise than by order of Court-martial.)

or officers by whom, and the extent to which, such minor punishments may be awarded.

(2) Imprisonment in military custody may be specified as such a minor punishment, provided that—

(a) the term of such imprisonment shall not exceed twenty-eight days; and

(b) it shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded, was of or above such rank.

Collective  
fines.

21. Whenever any weapon or part of a weapon forming part of the equipment of a half squadron, battery, company or other similar unit is lost or stolen, the officer commanding the army, <sup>1</sup>[army corps], division or independent brigade to which such unit belongs may, after obtaining the report of a court of inquiry, impose a collective fine upon the <sup>2</sup>[Indian]-officers, non-commissioned officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

Punishment  
of certain  
Indian  
followers.

22. (1) For any offence, in breach of good order, the commanding officer of any corps or detachment on active service, in camp, on the march, or at any <sup>3</sup>frontier post specified by the Governor General in Council by notification in this behalf at which troops are stationed, may punish any <sup>2</sup>[Indian] follower of such corps or detachment who is subject to this Act under section 2, sub-section (1), clause (c)—

(a) if such follower is not a menial servant, with imprisonment for a term which may extend to thirty days, or with fine which may extend to fifty rupees :

(b) if

<sup>1</sup> These words were inserted by s. 6 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>2</sup> See footnote <sup>2</sup> on p. 9, *supra*.

<sup>3</sup> For places so declared, see Gazette of India, 1911, Pt. I, p. 882.

(Chapter IV.—*Summary Reduction and Punishments otherwise than by order of Court-martial.*)

- (b) if such follower is a menial servant with imprisonment for a term which may extend to seven days, or, if on active service, with corporal punishment not exceeding twelve strokes of a rattan.

(2) Imprisonment awarded under this section may be carried out in a military guard, or in a jail, as ordered by the said commanding officer; and the officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant, under the hand of the said commanding officer, detain the offender according to the exigency of the warrant or until he is discharged by due course of law.

*Provost-Marshals.*

23. For the prompt and instant repression of irregularities and offences committed in the field or on the march, provost-marshals may be appointed by the Commander-in-Chief in India or an officer commanding an army, <sup>1</sup>[army corps], division or independent brigade or an officer commanding the forces in the field; and the powers and duties of such provost-marshals shall be regulated according to the established custom of war and the rules of the service.

24. (1) The duties of a provost-marshal so appointed are to take charge of prisoners confined for offences of a general description, to preserve good order and discipline, and to prevent breaches of the same by persons belonging or attached to the army.

Duties and powers.

(2) The provost-marshal may punish, corporally, then and there, any person subject to this Act below the rank of non-commissioned officer who, on active service and in his view or in the view of any of his assistants, commits any breach of good order and military discipline :

Provided that such punishment shall be limited to the necessity of the case, and shall accord with the orders

<sup>1</sup> These words were inserted by s 6 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

(Chapter IV.—*Summary Reduction and Punishments otherwise than by order of Court-martial.* Chapter V.—*Offences.*)

orders which the provost-marshal may from time to time receive from the officer commanding the troops, and shall be inflicted with the regulation cat :

Provided also that the orders of the said commanding officer shall in no case authorize such corporal punishment in excess of that awardable by sentence of a court-martial.

(3) If the offender is not on active service or if the actual commission of the offence is not witnessed by the provost-marshal or any of his assistants, but sufficient proof can be obtained of the offender's guilt, he shall report the case to the officer commanding the troops, who shall deal with the case as he may deem most conducive to the maintenance of good order and military discipline.

## CHAPTER V.

### OFFENCES.

#### *Offences in respect of Military Service.*

Offences  
punishable  
with death.

25. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend; or
- (b) in presence of an enemy, shamefully casts away his arms or ammunition, or intentionally uses words or any other means to induce any person subject to military law to abstain from acting against the enemy, or to discourage such person from acting against the enemy, or misbehaves in such manner as to show cowardice; or
- (c) directly or indirectly holds correspondence with, or communicates intelligence to, the enemy, or any person in arms against the State, or who, coming to the knowledge of

- of any such correspondence or communication, omits to discover it immediately to his commanding or other superior officer; or
- (*d*) treacherously makes known the watchword to any person not entitled to receive it; or
  - (*e*) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State; or
  - (*f*) in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency; or
  - (*g*) being a sentry in time of war or alarm, or over any State prisoner, treasure, magazine or dockyard, sleeps upon his post, or quits it without being regularly relieved or without leave; or
  - (*h*) in time of action, leaves his commanding officer or his post or party to go in search of plunder; or
  - (*i*) in time of war, quits his guard, picquet, party or patrol without being regularly relieved or without leave; or
  - (*j*) in time of war or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessities to the camp or quarters of any of His Majesty's forces, or forces a safeguard, or breaks into any house or any other place for plunder, or plunders, injures or destroys any field, garden or other property of any kind; <sup>1</sup>[or
  - (*k*) on active service commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving];

shall,

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<sup>1</sup> The word "or" and clause (*k*) were added by s. 8 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

*(Chapter V.—Offences.)*

shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Offences not  
punishable  
with death.

26. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) strikes, or forces or attempts to force, any sentry; or
- (b) in time of peace, intentionally occasions a false alarm in camp, garrison or cantonment; or
- (c) being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge or under charge of his guard; or
- (d) being a sentry, in time of peace, sleeps upon his post, or quits it without being regularly relieved or without leave,

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

*Mutiny and Insubordination.*

Offences  
punishable  
with death.

27. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) begins, excites, causes <sup>1</sup>[or conspires with any other persons to cause] or joins in any mutiny; or
- (b) being present at any mutiny, does not use his utmost endeavours to suppress the same; or
- (c) knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State, does not, without delay, give information thereof to his commanding or other superior officer; or
- (d) uses

<sup>1</sup> These words were inserted by s. 9 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

*(Chapter V.—Offences.)*

- (d) uses or attempts to use criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such; or
- (e) disobeys the lawful command of his superior officer;

shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

**28.** Any person subject to this Act who commits any of the following offences, that is to say—

Offences not punishable with death.

- (a) is grossly insubordinate or insolent to his superior officer in the execution of his office; or
- (b) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field; or
- (c) impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost-marshal, or any such officer, non-commissioned officer or other person;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

*Desertion, Fraudulent Enrolment and Absence without Leave.*

**29.** Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Desertion.

**30.** Any

(Chapter V.—Offences.)

Harbouring  
deserter,  
absence  
without  
leave, etc

30. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) knowingly harbours any deserter, or who, knowing, or having reason to believe, that any other person has deserted, or that any deserter has been harboured by any other person, does not without delay give information thereof to his own or some other superior officer, or use his utmost endeavours to cause such deserter to be apprehended; or
- (b) knowing, or having reason to believe, that a person is a deserter, procures or attempts to procure the enrolment of such person; or
- (c) without having first obtained a regular discharge from the corps or department to which he belongs, enrolls himself in the same or any other corps or department; or
- (d) absents himself without leave or without sufficient cause overstays leave granted to him, or
- (e) being on leave of absence and having received information from proper authority that any corps or portion of a corps, or any department, to which he belongs, has been ordered on active service, fails, without sufficient cause, to rejoin without delay; or
- (f) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or
- (g) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer quits the parade or line of march; or
- (h) in time of peace, quits his guard, picquet or patrol without being regularly relieved or without leave; or
- (i) without

*(Chapter V.—Offences.)*

- (i) without proper authority is found two miles or upwards from camp; or
- (j) without proper authority is absent from his cantonment or lines after tattoo, or from camp after retreat-beating;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

*Disgraceful Conduct.*

**31.** Any person subject to this Act who commits any of the following offences, that is to say,— Disgraceful  
conduct.

- (a) dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments or military stores of any kind, the property of Government, entrusted to him; or
- (b) dishonestly receives or retains any property in respect of which an offence under clause (a) has been committed, knowing or having reason to believe the same to have been dishonestly misappropriated or converted; or
- (c) wilfully destroys or injures any property of Government entrusted to him; or
- (d) commits theft in respect of any property of Government, or of any military mess, band or institution, or of any person subject to military law, or serving with, or attached to, the army; or
- (e) dishonestly receives or retains any such property as is specified in clause (d) knowing or having reason to believe it to be stolen;  
**or**
- (f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person; or
- (g) malingers

(Chapter. V.—Offences.)

- (g) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or
- (h) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or
- (i) commits any offence of a cruel, indecent or unnatural kind, or attempts to commit any such offence and does any act towards its commission;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

*Intoxication.*

**Intoxication.** 32. Any person subject to this Act who is in a state of intoxication, whether on duty or not on duty, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

*Offences in relation to Persons in Custody.*

Offences  
punishable  
with death.

33. Any person subject to this Act who, without proper authority, releases any State prisoner, enemy or person taken in arms against the State, placed under his charge, or who negligently suffers any such prisoner, enemy or person to escape, shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Offences not  
punishable  
with death

34. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge; or
- (b) without proper authority releases any prisoner or person placed under his charge,

*(Chapter V.—Offences.)*

charge, or negligently suffers any such prisoner or person to escape; or

- (c) being in military custody, leaves such custody before he is set at liberty by proper authority;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

*Offences in relation to Property.*

**35.** Any person subject to this Act who commits any of the following offences, that is to say,—

Offences in relation to property.

- (a) commits extortion, or without proper authority exacts from any person carriage, portage or provisions; or
- (b) in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys or damages any field, garden or other property; or
- (c) designedly or through neglect kills, injures, makes away with, ill-treats or loses his horse or any animal used in the public service; or
- (d) makes away with, or is concerned in making away with, his arms, ammunition, equipments, instruments, tools, clothing or regimental necessities; or
- (e) loses by neglect anything mentioned in clause (d); or
- (f) wilfully injures anything mentioned in clause (d) or any property belonging to Government, or to any military mess, band or institution, or to any person subject to military law, or serving with, or attached to the army; or
- (g) sells, pawns, destroys or defaces any medal or decoration granted to him;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

**36.** Any

(Chapter V.—Offences.)

*Offences in relation to False Documents and Statements.*

False accusations and offences in relation to documents

**36.** Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) makes a false accusation against any person subject to military law, knowing such accusation to be false; or
- (b) in making any complaint under section 117, knowingly makes any false statement affecting the character of any person subject to military law, or knowingly and wilfully suppresses any material fact; or
- (c) obtains or attempts to obtain for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement; or
- (d) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to Government or to any person in or attached to the army, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

False answers on enrolment

**37.** Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form

*(Chapter V.—Offences.)*

form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

*Offences in relation to Courts-martial.*

**38.** Any person subject to this Act who commits any of the following offences, that is to say,—

Offences in relation to courts-martial.

- (a) when duly summoned to attend as a witness before a court-martial, intentionally omits to attend, or refuses to be sworn or affirmed or to answer any question, or to produce or deliver up any book, document or other thing which he may have been duly warned and called upon to produce or deliver up; or
- (b) intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of, a court-martial while sitting; or
- (c) having been duly sworn or affirmed before any court-martial or other military court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

*Miscellaneous Military Offences.*

**39.** Any person subject to this Act who commits any of the following offences, that is to say,—

Miscellaneous military offences.

- (a) being an officer or warrant officer, behaves in a manner unbecoming his position and character; or

(b) strikes

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- (b) strikes or otherwise ill-treats any person subject to this Act being his subordinate in rank or position; or
- (c) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or
- (d) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person; or
- (e) attempts to commit suicide and does any act towards the commission of such offence; or
- (f) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bázár, carrying a sword, bludgeon or other offensive weapon; or
- (g) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or
- (h) neglects to obey any general or garrison or other orders; or
- (i) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and military discipline;

shall

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shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

<sup>1</sup>[39A. Whoever attempts to commit an offence Attempts. punishable by this Act, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence may, where no express provision is made by this Act for the punishment of such attempt, be punished with the punishment provided in this Act for such offence.]

*Abetment.*

40. Every person subject to this Act who abets Abetment. any offence punishable under this Act may be punished with the punishment provided in this Act for such offence.

*Civil Offences.*

41. Every person subject to this Act who at any place beyond British India, or when on active service in British India, commits any civil offence shall be deemed to be guilty of an offence against military law, and, if charged therewith under this section shall, subject to the provisions of this Act, be liable to be tried for the same by court-martial, and on conviction to be punished as follows, that is to say :—

- (a) if the offence is one which would be punishable under the law of British India with death or with transportation, he shall be liable to suffer any punishment assigned for the offence by the law of British India; and
- (b) in other cases, he shall be liable to suffer any punishment assigned for the offence by the law of British India, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and military discipline.

42. Every

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<sup>1</sup> This section was inserted by s. 10 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

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(Chapter V.—Offences. Chapter VI.—Punishments.)

Certain civil  
offences  
triable by  
military law.

42. Every person subject to this Act who commits or attempts to commit or abets the commission of an offence punishable under Chapter VI of the Indian Penal Code,<sup>1</sup> or any of the following offences against any person subject to military law, that is to say, murder, culpable homicide or any offence punishable under any of the sections 323 to 335 (both inclusive), or section 506 of the said Code, shall be deemed to be guilty of an offence against military law, and, if charged under this section with any such offence, shall, subject to the provisions of this Act, be liable to be tried by court-martial, and on conviction shall be liable to suffer any punishment assigned for the offence by the said Code. Act XLV of 1860.

## CHAPTER VI.

### PUNISHMENTS.

Punishments.

43. Punishments may be inflicted in respect of offences committed by persons subject to this Act, and convicted by court-martial, according to the scale following, that is to say:—

- (a) death;
- (b) transportation for life or for any period not less than seven years;
- (c) imprisonment <sup>2</sup>[either rigorous or simple] for any term not exceeding fourteen years;
- (d) dismissal from the service;
- (e) in the case of officers and warrant officers, suspension from rank, pay and allowances for <sup>3</sup>[a period not exceeding two months];
- (f) reduction

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<sup>1</sup> See the revised edition of the Code, as modified up to the 1st June, 1910

<sup>2</sup> These words were substituted for the words and brackets “(with or without solitary confinement)” by s 11 (1) of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>3</sup> These words were substituted for the words “any stated period,” by s. 11 (2) of the Indian Army (Amendment) Act, 1918 (XI of 1918).

*(Chapter VI.—Punishments.)*

- (f) reduction, in the case of a warrant officer, to a lower grade or class (if any) of warrant officer, or in the case of a non-commissioned officer, to a lower grade or to the ranks;
- (g) in the case of officers, warrant officers and non-commissioned officers, forfeiture of seniority of rank;
- <sup>1</sup>[(gg) in the case of officers, reprimand or severe reprimand];
- (h) forfeitures and stoppages as follows, namely:—
  - (i) forfeiture of service for the purpose of promotion, increased pay, pension or any other prescribed purpose;
  - (ii) forfeiture of any military decoration or military reward;
  - (iii) forfeiture, in the case of a person sentenced to dismissal from the service  
<sup>2</sup> \* \* \* \* \* of all arrears of pay and allowances and other public money due to him at the time of such dismissal;
  - (iv) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.
  - <sup>3</sup>[(v) on active service forfeiture of pay and allowances for a period not exceeding three months.]

44. Where in respect of any offence under this Act there is specified a particular punishment or such less punishment as is in this Act mentioned, there may be awarded in respect of that offence instead of such particular punishment (but subject to the

<sup>1</sup> This clause was inserted by s. 11 (3) of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>2</sup> The words "or whose sentence involves such dismissal" were repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>3</sup> This sub-clause was added by s. 11 (4) of the Indian Army (Amendment) Act, 1918 (XI of 1918).

(Chapter VI.—Punishments.)

the other provisions of this Act as to punishments and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment.

Corporal  
punishment

45. Where any person subject to this Act and under the rank of warrant officer—

- (a) on active service is guilty of any offence; or
- (b) at any time is guilty of the offence specified in clause (d) of section 31; or
- (c) at any time is guilty of a civil offence which would be punishable with whipping under the law of British India, and is triable by court-martial under this Act,

it shall be lawful for a court-martial to award for that offence corporal punishment not exceeding thirty lashes.

Position of  
corporal  
punishment  
in scale.

46. Corporal punishment shall, for the purpose of commutation, be deemed to stand in the scale of punishments next below dismissal.

Combination  
of punish-  
ments.

47. A sentence of a court-martial may award, in addition to or without any one other punishment, any one or more of the punishments specified in clauses (d), (f), <sup>1</sup>[(gg)] and (h) of section 43.

Solitary  
confinement.

48. Whenever any person is sentenced to rigorous imprisonment, the court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say,—

- (a) a time not exceeding one month if the term of imprisonment does not exceed six months;
- (b) a time not exceeding two months if the term of imprisonment exceeds six months and does not exceed one year;

(c) a

<sup>1</sup> The brackets and letters “ (gg) ” were inserted by s. 12 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

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(Chapter VI.—*Punishments.* Chapter VII.—*Penal Deductions.*)

- (c) a time not exceeding three months if the term of imprisonment exceeds one year.

49. A non-commissioned officer sentenced by court-martial to transportation, imprisonment, corporal punishment or dismissal from the service, shall be deemed to be reduced to the ranks.

Reduction of non-commissioned officers to ranks.

<sup>1</sup>[49A. When any person on active service has been sentenced by court-martial to dismissal or to transportation or imprisonment, whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and where such person has been sentenced to transportation or imprisonment, such service shall be reckoned as part of his term of transportation or imprisonment.]

Retention in the ranks of a person convicted on active service.

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CHAPTER VII.

PENAL DEDUCTIONS.

50. The following penal deductions may be made from the pay and allowances of a person subject to this Act, that is to say,—

Deductions from pay and allowances

- (a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment awarded by a criminal court, a court-martial, or an officer exercising authority under section 20;

- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment by an officer exercising authority under section 20,

- (c) all

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<sup>1</sup> This section was added by s. 13 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

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- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the <sup>1\*</sup> medical officer attending on him\* <sup>\*2</sup> to have been caused by an offence under this Act committed by him;
- <sup>3</sup>[(cc) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Commander-in-Chief in India];
- (d) all pay and allowances ordered by a court-martial to be suspended or forfeited under section 43;
- (e) any sum ordered by a court-martial to be stopped under section 43;
- (f) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, regimental necessaries or military decoration, or to any buildings or property, as may be awarded by his commanding officer;
- (g) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 41 or section 42, or an officer exercising authority under section 20 or section 21 :

Provided that the total deductions from the pay and allowances of a person subject to this Act made under clauses (e) to (g), both inclusive, shall not  
(except

<sup>1</sup> The word "proper" was repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>2</sup> The words "at the hospital" were repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>3</sup> This clause was inserted by s. 14 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

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(except in the case of a person sentenced to dismissal  
\* \* \* \*<sup>\*1</sup>) exceed in any one month one-half  
of his pay and allowances for that month.

*Explanation.*—For the purposes of clauses (a)  
and (b)—

- (i) absence or custody for six consecutive hours or upwards, whether wholly in one day or partly in one day and partly in another, may be reckoned as absence or custody for a day;
- (ii) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody; and
- (iii) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person.

51. Any sum authorized by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

Deductions from public money other than pay.

52. Any deduction from pay and allowances authorized by this Act may be remitted in such manner [and to such extent]<sup>2</sup> and by such authority as may from time to time be prescribed.

Remission of deductions.

<sup>3</sup>[52A. (1) In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under section 50, but in respect of whom a remission has been made under section

Provision for dependants of prisoners of war.

<sup>1</sup> The words “or whose sentence involves dismissal” were repealed by s. 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>2</sup> These words were inserted by s. 2 of the Indian Army (Amendment) Act, 1917 (X of 1917).

<sup>3</sup> This section was inserted by s. 3 of the Indian Army (Amendment) Act, 1917 (X of 1917).

*Army.* [ACT VIII  
(Chapter VII.—*Penal Deductions.* Chapter VIII.  
—*Courts-martial.*)

section 52, it shall be lawful, notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

(2) Any payments hitherto made to dependants by way of deductions from pay and allowances which, if this section had been in force, could have been validly made are hereby validated.]

## CHAPTER VIII.

### COURTS-MARTIAL.

#### *Constitution and Dissolution of Courts-martial.*

Courts-martial and the kinds thereof.

53. For the purposes of this Act there shall be four kinds of courts-martial, that is to say:—

- (1) general courts-martial;
- (2) district courts-martial;
- (3) summary general courts-martial; and
- (4) summary courts-martial.

Power to convene general courts-martial.

54. A general court-martial may be convened by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander-in-Chief in India.

Power to convene district courts-martial.

55. A district court-martial may be convened by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

Contents of warrant issued under section 54 or section 55. Composition of general courts-martial.

56. A warrant issued under section 54 or section 55 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

57. A general court-martial shall consist of not less than seven officers unless that number, due regard

## (Chapter VIII.—Courts-martial.)

gard being had to the public service, is not available, in which case the court may consist of not less than five officers.

58. A district court-martial shall consist of not less than three officers.

Composition of district courts-martial.

59. Whenever a general court-martial is ordered to be composed of the smaller number of officers specified in section 57, the order convening the court shall state that the larger number of officers is not, due regard being had to the public service, available, and such statement shall be conclusive evidence of the fact so stated.

Convening order to state if larger number of officers is not available.

60. The officers composing a general or district court-martial shall, at the discretion of the convening officer, but subject to the provisions of section 61, either be British or <sup>1</sup>[Indian] officers, but shall not be partly British and partly <sup>1</sup>[Indian] officers.

Composition of general or district courts-martial.

61. (1) Any person subject to this Act who is under orders for trial by general or district court-martial may claim to be tried by British officers.

Claim to trial by British officers.

(2) In all cases the right of making such a claim shall, before the court is convened, be explained to the person under orders for trial by the commanding officer, or some officer deputed by him in this behalf, and, when such a claim is made, the court shall be constituted accordingly.

62. The following authorities shall have power to convene a summary general court-martial, namely :—

Convening of summary general courts-martial.

- (a) an officer empowered in this behalf by an order of the Governor General in Council or of the Commander-in-Chief in India;
- (b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;
- (c) an officer commanding any detached portion of His Majesty's troops upon active service when, in his opinion, it is not practicable

<sup>1</sup> See footnote <sup>3</sup> on p. 9, *supra*.

*Army.* [ACT VIII  
(Chapter VIII.—Courts-martial.)

practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

Composition  
of summary  
general  
courts-  
martial.  
Summary  
courts-  
martial.

**63.** A summary general court-martial shall consist of not less than three officers.

**64.** (1) A summary court-martial may be held—

(a) by the commanding officer of any corps or department of His Majesty's Indian Forces, or of any detachment of those forces;

(b) by the commanding officer of any British corps or detachment to which details subject to this Act are attached.

(2) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceeding shall be attended throughout by two other officers who shall not, as such, be sworn or affirmed.

Dissolution  
of courts.

**65.** (1) If a court-martial after the commencement of a trial is reduced below the smallest number of officers of which it is by this Act required to consist, it shall be dissolved :

Provided that a general court-martial shall not be dissolved under the provisions of this sub-section unless it is reduced below five officers.

(2) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this section, the accused may be tried again.

*Jurisdiction of Courts-martial.*

Prohibition  
of second  
trial.

**66.** When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under section 20 or section 22,

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22, he shall not be liable to be tried again for the same offence by a court-martial or dealt with summarily in respect of it under either of the said sections.

67. No person subject to this Act shall be tried or punished by a court-martial for any offence after the expiration of three years from the date of such offence, unless the offender, by reason of absence or of some other manifest impediment, could not be arrested or confined and brought to trial within that period; in which case he shall be liable to be tried at any time not exceeding two years after such impediment has ceased. Limitation of trial.

68. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever. Place of trial.

*Adjustment of the jurisdiction of Courts-martial and Criminal Courts.*

69. When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in military custody. Order in case of concurrent jurisdiction.

70. (1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the prescribed military authority at its option either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Governor General in Council. Power of criminal court to require delivery of offender.

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question

as

41

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(Chapter VIII.—Courts-martial.)

as to the court before which the proceedings are to be instituted for the determination of the Governor General in Council, whose order upon such reference shall be final.

Trial by court-martial no bar to subsequent trial by criminal court.

**71.** (1) Notwithstanding anything contained in section 26 of the <sup>1</sup>General Clauses Act, 1897, or in section 403 of the <sup>2</sup>Code of Criminal Procedure, 1898, a person convicted or acquitted by a court-martial may be afterwards tried by a criminal court for the same offence or on the same facts. X of 18  
Act V c  
1898.

(2) If a person sentenced by a court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a criminal court for the same offence or on the same facts, that court shall, in awarding punishment, have regard to the military punishment he may already have undergone.

*Powers of Courts-martial.*

Powers of general and summary general courts-martial.

**72.** A general or summary general court-martial shall have power to try any person subject to this Act for any offence made punishable therein, and to pass any sentence authorized by this Act.

Powers of district court-martial.

**73.** A district court-martial shall have power to try any person subject to this Act other than an officer for any offence made punishable therein, and to pass any sentence authorized by this Act other than a sentence of death, or transportation, or imprisonment for a term exceeding two years.

Offences triable by summary court-martial.

**74.** A summary court-martial may try any offence punishable under any of the provisions of this Act :

Provided that when there is no grave reason for immediate action, and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial <sup>3</sup>[or on active service a summary general court-martial] for the trial of the alleged offender, an officer holding a summary

<sup>1</sup> Genl. Acts, Vol. IV.

<sup>2</sup> Genl. Acts, Vol. V.

<sup>3</sup> These words were inserted by s. 15 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

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summary court-martial shall not try without such reference any of the following offences, namely :—

- (a) any offence punishable under sections 25, 27, clauses (a), (b) or (c), 33, 41 or 42, or
- (b) any offence against the officer holding the court.

**75.** A summary court-martial may try any person subject to this Act and under the command of the officer holding the court, except an officer or warrant officer. Persons triable by summary court-martial.

**76.** (1) A summary court-martial <sup>1</sup>\* \* \* may pass any sentence which can be passed under this Act, except a sentence of death or transportation, or of imprisonment for a term exceeding one year. Sentences awardable by summary court-martial.

\* \* \* \* \*

*Procedure at Trials by Court-martial.*

**77.** At every general, district or summary general court-martial the senior member shall sit as president. President.

**78.** Every general court-martial shall, and every district court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate General in India, or, if no such officer is available, a person appointed by the convening officer. Judge Advocate.

**79.** A British officer of not less than four years' service, hereinafter called the superintending officer, shall be appointed to superintend the proceedings of every court-martial composed of <sup>3</sup>[Indian] officers which is not attended by a judge advocate. Superintending officer.

**80.** (1) At all trials by general, district or summary general courts-martial, as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court. Challenges.

(2) If

<sup>1</sup> The words "held by the commanding officer of a corps or department" were repealed by s. 4 of the Indian Army (Amendment) Act, 1917 (X of 1917).

<sup>2</sup> Sub-section (2) of s. 76 was repealed by s. 4 of the Indian Army (Amendment) Act, 1917 (X of 1917).

<sup>3</sup> See footnote <sup>2</sup> on p. 9, *supra*.

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(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

Voting of members.

**81.** (1) Every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused.

(2) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

Oaths of president and members.

**82.** An oath or affirmation in the prescribed form shall be administered to every member of every court-martial and to the judge advocate or superintending officer before the commencement of the trial.

Oaths of witnesses.

**83.** Every person giving evidence at a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form.

Summoning witnesses and production of documents.

**84.** (1) The convening officer, the president of the court, the judge advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

of 1872.] (5) Nothing in this section shall be deemed to affect the <sup>1</sup>Indian Evidence Act, 1872, sections 123 and 124, or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(7) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

**85.** (1) Whenever, in the course of a trial by Commissions. court-martial, it appears to the court that the examination of a witness is necessary for the ends of

<sup>1</sup> Genl. Acts, Vol. II.

of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Judge Advocate General in order that a commission to take the evidence of such witness may be issued.

(2) The Judge Advocate General may then, if he thinks necessary, issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) When the witness resides in the territories of any prince or chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

(4) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the <sup>1</sup>Code of Criminal Procedure, 1898.

(5) Where the commission is issued to such officer as is mentioned in sub-section (3), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

(6) When the witness resides out of India, the commission may be issued to any British consular officer, British Magistrate or other British official competent to administer an oath or affirmation in the place where such witness resides.

(7) The prosecutor and the accused person in any case in which a commission is issued may respectively forward any interrogatories in writing  
which

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<sup>1</sup> Genl. Acts, Vol V.

*(Chapter VIII.—Courts-martial.)*

which the court may think relevant to the issue, and the Magistrate or officer to whom the commission is issued shall examine the witness upon such interrogatories.

(8) The prosecutor and the accused person may appear before such Magistrate or officer by pleader or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

(9) After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge Advocate General.

(10) On receipt of a commission and deposition returned under sub-section (9), the Judge Advocate General shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(11) In every case in which a commission is issued under this section the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

*Explanation.*—In this section, the expression “Judge Advocate General” means the Judge Advocate General in India, and includes a Deputy Judge Advocate General.

**86.** (1) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

Conviction of one offence permissible on charge of another.

(2) A person charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(3) A

*Army.* [ACT VIII  
(Chapter VIII.—Courts-martial.)

(3) A person charged before a court-martial with any of the following offences specified in section 31, that is to say, theft, dishonest misappropriation or conversion to his own use of property entrusted to him, or dishonestly receiving or retaining property in respect of which any of the aforesaid offences has been committed knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, may be found guilty of any other of these offences with which he might have been charged.

(4) A person charged before a court-martial with an offence punishable under section 41 or section 42 may be found guilty of any other offence of which he might have been found guilty if the provisions of the <sup>1</sup>Code of Criminal Procedure, 1898, were applicable. Act V of 1898.

(5) A person charged before a court-martial with any other offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

<sup>2</sup>[(6) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted to commit or of abetment of that offence although the attempt or abetment is not separately charged.]

Majority  
requisite to  
sentence of  
death.

87. No sentence of death shall be passed by any court-martial without the concurrence of two-thirds at the least of the members of the court.

*Evidence before Courts-martial.*

General rule  
as to evi-  
dence.

88. The <sup>3</sup>Indian Evidence Act, 1872, shall, <sup>1</sup>of 1872. subject to the provisions of this Act, apply to all proceedings before a court-martial.

89. A

<sup>1</sup> Genl. Acts, Vol. V.

<sup>2</sup> This sub-section was added by s. 16 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>3</sup> Genl. Acts, Vol. II.

1911.]

*Army.*

*(Chapter VIII.—Courts-martial.)*

**89.** A court-martial may take judicial notice of any matter within the general military knowledge of the members. Judicial notice.

**90.** In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown. Presumption as to signatures.

**91.** Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given. <sup>1</sup>[The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.] Enrolment paper.

<sup>2</sup>[**91A.** (1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of His Majesty's Forces, or respecting the circumstance of any person not having served in, or belonged to, any portion of His Majesty's Forces, if purporting to be signed by or on behalf of the Governor General in Council or the Commander-in-Chief in India or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document. Presumption as to certain documents.

(2) An Army List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, battalion or

<sup>1</sup> These words were substituted for the words "and of the enrolment of such person" by s 17 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

<sup>2</sup> This section was inserted by s 18 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

(Chapter VIII.—Courts-martial.)

or arm or branch of the service to which such officers or warrant officers belong.

(3) Where a record is made in any regimental book, in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(4) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a provost-marshal, assistant provost-marshal or other officer, or any portion of His Majesty's Forces, a certificate purporting to be signed by such provost-marshal, assistant provost-marshal or other officer, or by the commanding officer of that portion of His Majesty's Forces and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.

(6) When any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police-officer not below the rank of an officer in charge of a police-station, a certificate purporting to be signed by such police-officer and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.]

Reference by  
accused to  
Government  
officer.

92. (1) If at any trial for desertion, absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the civil or military service of Government,

*(Chapter VIII.—Courts-martial.)*

Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another court-martial.

93. (1) When any person subject to this Act has been convicted by a court-martial of any offence, such court-martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial or by a criminal court, and may further inquire into and record the general character of such person, and such other matters as may be prescribed.

Evidence of  
previous  
convictions  
and general  
character.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary <sup>1</sup>\* \* \* \* to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

## 94. No

<sup>1</sup> The words "to prove the signature to such certified extracts, nor shall it be necessary" were repealed by s 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918)

*Army.* [ACT VIII  
(Chapter VIII.—Courts-martial)

*Confirmation and Revision of Findings and Sentences.*

**94.** No finding or sentence of a general or district court-martial shall be valid except so far as it may be confirmed as provided by this Act.

**95.** The findings and sentences of general courts-martial may be confirmed by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander-in-Chief in India.

**96.** The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

**97.** A warrant issued under section 95 or section 96 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

**98.** (1) The finding and sentence of a summary general court-martial shall require to be confirmed by the convening officer <sup>1</sup>[or if the convening officer so directs, by an authority superior to the convening officer]—

- (a) in the case of the trial of an officer,
- (b) in the case of an acquittal or a sentence of death or transportation or imprisonment for a term exceeding two years, and
- (c) in any other case if so ordered by the <sup>2</sup>[convening] officer.

(2) Save as provided in sub-section (1), a sentence passed by a summary general court-martial shall not require to be confirmed, but may be carried out forthwith.

**99.** Subject to such restrictions as may be contained in any warrant issued under section 95 or section 96, a confirming officer may, when confirming the

<sup>1</sup> These words were inserted by s. 19 (1) of the Indian Army (Amendment) Act, 1918 (XI of 1918)

<sup>2</sup> This word was substituted for the word "said" by s. 19 (2) of the Indian Army (Amendment) Act, 1918 (XI of 1918).

*(Chapter VIII.—Courts-martial.)*

the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial :

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

<sup>1</sup>[**99A.** When any person subject to this Act is tried and sentenced by court-martial while on board ship, the finding and sentence so far as not confirmed and executed on board ship may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.]

Confirmation  
of finding  
and sentence  
on board  
ship.

**100.** (1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming officer; and on such revision, the court, if so directed by him, may take additional evidence.

Revision of  
finding or  
sentence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or if a district court-martial, of three officers.

**101.** The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out forthwith :

Finding and  
sentence of  
a summary  
court-martial.

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of an officer commanding not less than a corps.

**102.** The

<sup>1</sup> This section was inserted by s. 20 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

(Chapter VIII.—*Courts-martial. Chapter IX.—  
Execution of Sentences.*)

Transmission  
of proceedings  
of summary  
courts-  
martial.

**102.** The proceedings of every summary court-martial shall without delay be forwarded to the officer commanding the division or brigade within which the trial was held, or to the prescribed officer, and such officer, or the Commander-in-Chief in India, or the officer commanding the army, <sup>1</sup>[or army corps,] in which the trial was held, may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings or reduce the sentence to any other sentence which the court might have passed.

Substitution  
of valid  
for invalid  
sentence.

**103.** Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, is found for any reason to be invalid, the authority who would have had power under section 112 to commute the punishment awarded by the sentence if it had been valid may pass a valid sentence :

Provided that the punishment awarded by the sentence so passed shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by the invalid sentence.

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CHAPTER IX.

EXECUTION OF SENTENCES.

Form of  
sentence  
of death.

**104.** In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

Imprison-  
ment to be  
in military  
custody.

**105.** Whenever any person is sentenced under this Act to simple imprisonment, such sentence shall be carried out by confinement in military custody.

**106.** Whenever

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<sup>1</sup> These words were inserted by s. 6 of the Indian Army (Amendment) Act, 1918 (XI of 1918)

*(Chapter IX.—Execution of Sentences.)*

**106.** Whenever any person is sentenced under this Act to transportation or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president or, in the case of a summary court-martial, by the court.

Commence  
ment of  
sentence of  
transporta-  
tion or im-  
prisonment.

**107.** Whenever any sentence of transportation or rigorous imprisonment is passed under this Act, or whenever any sentence so passed is commuted to transportation or to rigorous imprisonment, the commanding officer of the person under sentence, or such other officer as may be prescribed, shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined, and shall forward him to such prison with the warrant.

Execution of  
sentence of  
transporta-  
tion or im-  
prisonment.

Provided that, in the case of a sentence of rigorous imprisonment for a period not exceeding three months, the confirming officer, or, in the case of a sentence which does not require confirmation, the court, may direct that the sentence shall be carried out by confinement in military custody.

<sup>1</sup>[Provided further that on active service a sentence of rigorous imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may, from time to time, appoint.]

**108.** Whenever, in the opinion of an officer commanding an army, <sup>2</sup>[army corps], division or independent brigade, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in accordance with the provisions of section 105 or section 107, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

Execution of  
sentence of  
imprisonment  
in special  
cases.

<sup>1</sup>[**108A.** In

<sup>1</sup> This proviso was added by s 21 of the Indian Army (Amendment) Act, 1918 (XI of 1918)

<sup>2</sup> These words were inserted by s 6 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

(Chapter IX.—Execution of Sentences.)

Offenders  
sentenced to  
transporta-  
tion how  
dealt with  
until trans-  
ported.

<sup>1</sup>[108A. In every case in which a sentence of transportation is passed under this Act, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be deemed to have been undergoing his sentence of transportation during the term of his imprisonment.]

Communica-  
tion of certain  
orders to civil  
prison  
officers.

109. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer in charge of the prison in which such person is confined.

Limit of  
solitary con-  
finement.

110. In executing a sentence of solitary confinement such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and, when the imprisonment awarded exceeds three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Instrument of  
corporal  
punishment.

111. Whenever any person is sentenced under this Act by a court-martial to corporal punishment, such punishment shall be inflicted on the bare back with the regulation cat.

Execution of  
sentence of  
fine.

<sup>2</sup>[111A. When a sentence of fine is imposed by a court-martial under section 41 or section 42, whether the trial was held within British India or not, a copy of such sentence, signed and certified by the president of the court or the officer holding the trial, as the case may be, may be sent to any Magistrate in British India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with

<sup>1</sup> This section was inserted by s. 22 of the Indian Army (Amendment) Act, 1918 (XI of 1918)

<sup>2</sup> This section was added by s. 23 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

1911.]

*Army.*

*(Chapter X.—Pardons and Remissions.)*

with the provisions of the <sup>1</sup>Code of Criminal Procedure, 1898, for the levy of fines as if it was a sentence of fine imposed by such Magistrate.]

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## CHAPTER X.

### PARDONS AND REMISSIONS.

<sup>2</sup>[112. (1) When any person subject to this Act Pardons and remissions. has been convicted by a court-martial of any offence, the Governor General in Council or the Commander-in-Chief in India or, in the case of a sentence which he could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or independent brigade in which such person at the time of his conviction was serving, or the prescribed officer may,

- (a) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded;
- (b) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act :

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

(2) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the court shall be carried into

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<sup>1</sup> Genl Acts, Vol V.

<sup>2</sup> This section was substituted by s. 24 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

*Army.* [ACT VIII  
(Chapter X.—Pardons and Remissions. Chapter  
XI.—Rules.)

into effect as if such pardon had not been granted or such punishment had not been remitted :

Provided that, in the case of a person sentenced to transportation or imprisonment, such person shall undergo only the unexpired portion of his sentence.

(3) When under the provisions of section 49 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section, be treated as a punishment awarded by sentence of a court-martial.]

## CHAPTER XI.

### RULES.

Power to  
make rules.

**113.** (1) The Governor General in Council may make <sup>1</sup>rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the discharge from the service of persons subject to this Act,
- (b) the amount and incidence of fines to be imposed under section 21 ;
- (c) the assembly and procedure of courts of inquiry, and the administration of oaths or affirmations by such courts;
- (d) the convening and constituting of courts-martial;
- (e) the adjournment, dissolution and sittings of courts-martial;
- (f) the procedure to be observed in trials by courts-martial;
- (g) the confirmation and revision of the findings and sentences of courts-martial;
- (h) the carrying into effect sentences of courts-martial;
- (i) the

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<sup>1</sup> For Rules under the Act see General Statutory Rules and Orders and List of General Rules and Orders.

1911.]

*Army.*

(Chapter XI.—Rules. Chapter XII.—Property of Deceased Persons, Deserters and Lunatics.)

(i) the forms of orders to be made under the provisions of this Act relating to courts-martial, transportation or imprisonment; and

<sup>1</sup>[(ii) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependents under section 52A, and the due carrying out of such decisions];

(j) any matter in this Act directed to be prescribed.

(3) All rules made under this Act shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

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## CHAPTER XII.

### PROPERTY OF DECEASED PERSONS, DESERTERS AND LUNATICS.

<sup>2</sup>[114. The following rules are enacted respecting the disposal of the property of every person subject to this Act who dies or deserts :—

Property of deceased persons and deserters.

(1) The commanding officer of the corps, detachment or department to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.

(2) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer

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<sup>1</sup> This clause was inserted by s 6 of the Indian Army (Amendment) Act, 1917 (X of 1917).

<sup>2</sup> This section was substituted by s 2 of the Indian Army (Amendment) Act, 1914 (XV of 1914)

(Chapter XII.—*Property of Deceased Persons, Deserters and Lunatics.*)

officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith, notwithstanding anything in any departmental rules, and after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses (1) and (2) to that representative.

(4) In the case of a deceased person whose estate is not dealt with under clause (3), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the regimental and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies, from the proceeds of the sale and from any pay and allowances drawn under clause (1) and from the amount of the deposit (if any) received under clause (2).

(5) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed person.

(6) In the case of a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Majesty, unless the deserter shall in the meantime have surrendered or been apprehended.

Meaning of  
desertion.

*Explanation.*—A person shall be deemed to be a deserter within the meaning of this section who has  
without

1911.]

*Army.*

(Chapter XII.—*Property of Deceased Persons, Deserters and Lunatics.* Chapter XIII.—*Miscellaneous.*)

without authority been absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.]

115. Property deliverable and money payable to the representative of a deceased person under section 114 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

Disposal of certain property without production of probate, etc.

116. The provisions of section 114 shall, so far as they can be made applicable, apply in the case of a person subject to this Act becoming insane.

Application of section 114 to lunatics.

## CHAPTER XIII.

### MISCELLANEOUS.

#### *Military Privileges.*

117. (1) Any person subject to this Act who deems himself wronged by any superior or other officer, may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the officer commanding the same.

Complaints against officers.

(2) When

(Chapter XIII.—Miscellaneous.)

(2) When the officer complained against is the officer to whom any complaint should, under subsection (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall examine into it, and, when necessary, refer it to superior authority.

(4) Every such complaint shall be preferred through such channels as may be from time to time specified by proper authority.

Privileges of  
persons  
attending  
courts-  
martial.

**118.** (1) No president or member of a court-martial, no judge advocate or superintending officer, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from a court-martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

Exemption  
from arrest  
for debt.

**119.** (1) No person subject to this Act shall, so long as he belongs to His Majesty's Indian forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

(2) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no fee shall be payable to the court by the complainant.

Property  
exempted  
from  
attachment.

**120.** Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to this

*(Chapter XIII.—Miscellaneous.)*

this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

**121.** Every person belonging to the Indian Reserve Forces shall, when called out for or engaged upon or returning from training or service, be entitled to all the privileges accorded by sections 119 and 120 to a person subject to this Act.

*Application of the last two foregoing sections to reservists.*

**122.** (1) On the presentation to any court by or on behalf of any person subject to this Act of a certificate, from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

*Priority of hearing by courts of cases in which Indian officers and soldiers are concerned.*

(2) The certificate from the proper military authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If

(Chapter XIII.—Miscellaneous.)

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to an officer commanding a corps, whose decision shall be final.

*Deserters and Military Offenders.*

Capture of  
Deserters.

**123.** (1) Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, to military custody.

(2) Any police-officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

Arrest by  
military  
authorities

**124.** (1) Any person subject to this Act who is charged with an offence may be taken into military custody.

(2) Any such person may be ordered into military custody by any superior officer.

(3) The charge against every person taken into military custody shall, without unnecessary delay, be investigated by the proper military authority, and, as soon as may be, either proceedings shall be taken for punishing the offence, or such person shall be discharged from custody.

Arrest by civil  
authorities

**125.** Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or police-officer, such Magistrate or officer shall aid in the apprehension and delivery to military custody of such person  
upon

*(Chapter XIII.—Miscellaneous.)*

upon receipt of a written application to that effect signed by his commanding officer.

**126.** (1) When any person subject to this Act has been absent without due authority from his duty for a period of sixty days, a court of inquiry shall, as soon as practicable, be assembled and upon oath or affirmation administered in the prescribed manner, shall inquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessaries, and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

1\* \* \* \* \*

*Disposal of Property.*

**126A.** When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

**126B.** (1) After the conclusion of a trial before any court-martial, the court or the officer confirming the

<sup>1</sup> Sub-section (3) of s 126 was repealed by s 26 and Schedule of the Indian Army (Amendment) Act, 1918 (XI of 1918)

<sup>2</sup> Sections 126A and 126B were inserted by s 25 of the Indian Army (Amendment) Act, 1918 (XI of 1918).

*Army.* [ACT VIII  
(Chapter XIII.—Miscellaneous.)

the finding or sentence of such court-martial or any authority superior to such officer, or, in the case of a court-martial whose finding or sentence does not require confirmation, the officer commanding the army, army corps, division or brigade within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under subsection (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within British India or not, be sent to a Magistrate in any presidency-town or district in which such property for the time being is, and such Magistrate shall thereupon cause the order to be carried into effect as if it was an order passed by such Magistrate under the provisions of the <sup>1</sup>Code of Criminal Procedure, 1898. Act V of 1898.

*Explanation.*—In this section the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

*Repeal.*

Repeal.

**127.** The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof :

Provided

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<sup>1</sup> Genl. Acts, Vol. V.

1911.]

*Army.*  
(*The Schedule.*)

Provided that all warrants issued and persons enrolled or attested under the provisions of any of the said enactments shall be deemed to have been respectively issued, enrolled or attested under this Act.

THE SCHEDULE.  
REPEAL OF ENACTMENTS.  
(*See section 127.*)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1869	V	The Indian Articles of War .	The whole.
1875	V	The Unattested Sepoys Act, 1875	Ditto.
1891	XII	The Amending Act, 1891 . .	So much of section 2, sub-section (2) and the Second Schedule as relates to the Indian Articles of War.
1894	XII	The Indian Articles of War Amendment Act, 1894	The whole.
1897	XIV	The Indian Short Titles Act, 1897.	So much of section 2 and the Schedule as relates to Act V of 1875.
1900	I	The Indian Articles of War Amendment Act, 1900.	The whole.
1901	IX	The Indian Articles of War Amendment Act, 1901.	Ditto.
1904	XIII	The Indian Articles of War Amendment Act, 1904.	Ditto.
1905	V	The Indian Articles of War Amendment, Act, 1905.	Ditto.

CALCUTTA  
SUPERINTENDENT GOVERNMENT PRINTING, INDIA  
8, HASTINGS STREET

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

THE INDIAN COINAGE ACT, 1906.  
(III OF 1906).

AS MODIFIED UP TO THE 15TH MARCH, 1921.

CALCUTTA  
SUPERINTENDENT GOVERNMENT PRINTING, INDIA  
1921

[Price Three Annas.]

CALCUTTA  
SUPERINTENDENT GOVERNMENT PRINTING, INDIA  
8, HASTINGS STREET

## STATEMENT OF REPEALS AND AMENDMENTS

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SECTION 4 repealed in part, Act 4 of 1918.

21 of 1919

„ 5 amended, Act 4 of 1918.

„ 6 substituted, Act 4 of 1918.

amended, Act 21 of 1919.

„ 7 amended, Act 21 of 1919.

„ 8 supplemented, Act 22 of 1918.

„ 11 amended, Act 36 of 1920

„ 12 repealed in part, Act 4 of 1918

„ 13 substituted, Act 4 of 1918.

amended, Act 21 of 1919.

„ 16 (heading) amended, Act 21 of 1919.

„ 20 amended, Act 21 of 1919.

„ 24 repealed in part, Act 10 of 1914.

The Schedule—repealed, Act 10 of 1914.



# THE INDIAN COINAGE ACT, 1906.

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# ACT NO. III OF 1906.<sup>1</sup>

[2nd March, 1906]

An Act to consolidate and amend the law relating to Coinage and the Mint.

[As modified up to the 15th March, 1921.]

WHEREAS it is expedient to consolidate and amend the law relating to Coinage and the Mint; It is hereby enacted as follows:

## *Preliminary.*

1. (1) This Act may be called the Indian Coinage <sup>Short title</sup> Act, 1906; and <sup>and extent.</sup>

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

2. In this Act, unless there is anything repugnant <sup>Definitions.</sup> in the subject or context,—

(a) “deface,” with its grammatical variations and cognate expressions, includes clipping, filing, stamping, or such other alteration of the surface or shape of a coin as is readily distinguishable from the effects of reasonable wear;

(b) “the Mint” includes the Mints now existing and any which may hereafter be established;

(c) “prescribed” includes prescribed by a rule made under this Act;

(d) “remedy” means variation from the standard weight and fineness; and

(e) “standard weight”

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1905, Part V, p. 32, for Report of Select Committee, *see ibid.*, 1906 Part V, p. 9; and for Proceedings in Council, *see ibid.*, 1905, Part VI, p. 142, *ibid.*, 1906, Part VI, p. 28.

The Act has been declared in force in the Angul district by notification under s. 3 of the Angul Laws Regulation, 1913 (3 of 1913). B. and O. Code.

The Act has been declared in force in the Arakan Hill district, by Notification under s. 2 of the Arakan Hill District Laws Regulation, 1916 (1 of 1916).

(e) "standard weight" means the weight prescribed for any coin.

Power to  
establish  
and abolish  
Mints.

3. The Governor General in Council may, by notification in the Gazette of India,—

(a) establish a Mint at any place at which a Mint does not for the time being exist; and

(b) abolish any Mint, whether now existing or hereafter established.

### *Silver Coinage.*

Silver coins.

4. The following silver coins only shall be coined at the Mint for issue under the authority of the Governor General in Council, namely:—

(a) a rupee to be called the Government rupee;

(b) a half-rupee,\*<sup>1</sup>

(c) a quarter-rupee.\*<sup>1</sup>

\*\*\*<sup>2</sup>

Standard  
weight and  
fineness.

5. (1) The standard weight of the Government rupee shall be one hundred and eighty grains Troy and its standard fineness shall be as follows, namely: eleven-twelfths, or one hundred and sixty-five grains of fine silver, and one-twelfth, or fifteen grains of alloy.

(2) The other silver coins shall be of proportionate weight and of the same fineness:

Provided that in the making of silver coins, a remedy shall be allowed of an amount not exceeding the following, namely:—

	Remedy in weight.	Remedy in fineness.
Rupee . . . }	Five-thousandths.	Two-thousandths.
Half-rupee . . }		
<sup>3</sup> [Quarter-rupee . . ]	Seven-thousandths.	Three-thousandths.]

### *Nickel*

<sup>1</sup> The words "or eight-anna piece" and "or four-anna piece" in clauses (b) and (c) respectively were omitted by s 2 of the Indian Coinage (Amendment) Act, 1919 (21 of 1919)

<sup>2</sup> The words "and (d) an eighth of a rupee, or two-anna piece" were omitted by s. 2 of the Indian Coinage (Amendment) Act, 1918 (4 of 1918), General Acts, Vol. VIII.

<sup>3</sup> These items were substituted for the original items by s 3 of the Indian Coinage (Amendment) Act, 1918 (4 of 1918), General Acts, Vol. VIII.

*Nickel Coinage.*

<sup>1</sup>6. The following nickel coins only shall be coined <sup>Nickel coins.</sup> at the Mint for issue under the authority of the Governor General in Council, namely: <sup>2</sup>[an eight-anna, a four-anna, a two-anna and a one-anna piece].

<sup>7</sup>7. The standard weight of the <sup>3</sup>[eight-anna, four-anna, two-anna, and one-anna pieces shall be one <sup>Standard weight.</sup> hundred and twenty, one hundred and five, ninety, and sixty grains Troy, respectively:]

Provided that, in the making of nickel coin, a remedy shall be allowed of an amount not exceeding one-fortieth in weight.

*Bronze Coinage.*

<sup>4</sup>8. The following bronze coins only shall be coined <sup>Bronze coins.</sup> at the Mint for issue under the authority of the Governor General in Council, namely:—

- (a) a pice, or quarter-anna;
- (b) a half-pice, or one-eighth of an anna; and
- (c) a pie, being one-third of a pice, or one-twelfth of an anna.

9. (1) The standard weight of the pice shall be <sup>Standard weight and composition</sup> seventy-five grains Troy, and the other bronze coins shall be of proportionate weight.

(2) Bronze coins shall be coined from a mixed metal consisting of copper, tin and zinc:

Provided that, in the making of bronze coins, a remedy shall be allowed of an amount not exceeding one-fortieth in weight.

*Dimensions*

<sup>1</sup>This section was substituted for the original section 6 by s. 4 of the Indian Coinage (Amendment) Act, 1918 (4 of 1918), General Acts, Vol. VIII.

The original section ran as follows:—

<sup>2</sup>"6 The following nickel coin only shall be coined at the Mint for issue under the authority of the Governor General in Council, namely: a one-anna piece."

<sup>3</sup>These words were substituted for the words "a two-anna piece and a one-anna piece" by s. 3 of the Indian Coinage (Amendment) Act, 1919 (21 of 1919).

<sup>4</sup>These words were substituted by s. 4 of the Indian Coinage (Amendment) Act, 1919 (21 of 1919.)

<sup>5</sup>For legal tender of bronze coins coined outside British India see the Bronze Coin (Legal Tender) Act, 1918 (22 of 1918), General Acts, Vol. VIII.

*Dimensions and Designs of Coins.*

Power  
to direct  
coining,  
and to  
prescribe  
dimensions  
and designs.

**10.** (1) The Governor General in Council may, by notification<sup>1</sup> in the Gazette of India,—

- (a) direct the coining and issuing of all coins referred to in sections 4, 6 and 8, and
- (b) determine the dimensions of, and designs for, such coins.

(2) Until the Governor General in Council otherwise determines by notification under sub-section (1), the dimensions and designs of the silver coins coined under this Act shall be those prescribed for the like silver coins under the <sup>2</sup>Indian Coinage Act, 1870, at <sup>XXIII of</sup> 1870 the time of the commencement of this Act.

*Legal Tender.*

Gold coins a  
legal tender.

**11.** Gold coins, whether coined at His Majesty's Royal Mint in England or at any Mint established in pursuance of a Proclamation of His Majesty as a branch of His Majesty's Royal Mint, shall be a legal tender in payment or on account at the rate of <sup>3</sup>[ten] rupees for one sovereign :

Provided that such coins have not been called in by any Proclamation made in pursuance of the Coinage Act, 1870,<sup>4</sup> or have not lost weight so as to be of less weight than that for the time being prescribed for like coins by or under the said Statute as the least current weight. <sup>33 & 34</sup> <sup>Vict, c 10</sup>

Silver coin  
when a legal  
tender.

**12.** (1) The rupee and half-rupee shall be a legal tender in payment or on account :

Provided that the coin—

- (a) has not lost in weight so as to be more than two per cent. below standard weight, and
- (b) has not been defaced.

(2) The

<sup>1</sup>For Notifications issued under this section, see General Statutory Rules and Orders

<sup>2</sup>Repealed by this Act.

<sup>3</sup>This word was substituted for the word "fifteen" by s. 2 of the Indian Coinage (Amendment) Act, 1920 (36 of 1920)

<sup>4</sup>Collection of Statutes relating to India.

(2) The quarter-rupee<sup>1</sup> shall be a legal tender in payment or on account for any sum not exceeding one rupee :

Provided that the coin—

(a) has not lost in weight so as to be more than such percentage below standard weight as may be prescribed as the limit of reasonable wear, and

(b) has not been defaced.

<sup>2</sup>13. <sup>3</sup>[The eight-anna, four-anna, two-anna,] and one-anna nickel coins specified in section 6 shall be a legal tender in payment or on account for any sum not exceeding one rupee at the rate of <sup>4</sup>[two, four,] eight and sixteen for a rupee, respectively.

Nickel coin when a legal tender

14. The bronze coins specified in section 8 shall be a legal tender in payment or on account for any sum not exceeding one rupee at the following rates, respectively, namely :—

Bronze coin when a legal tender.

(a) the pice at the rate of sixty-four for a rupee, or four for an anna ;

(b) the half-pice at the rate of one hundred and twenty-eight for a rupee, or eight for an anna; and

(c) the pie at the rate of one hundred and ninety-two for a rupee, or twelve for an anna.

15. (1) (a) All silver coin of the weight and standard specified in Acts No. XVII of 1825,<sup>5</sup> No. XXI of 1835,<sup>6</sup> No. XIII of 1862<sup>7</sup> and the Indian Coinage Act, 1870,<sup>7</sup> and

Coin made under former Acts.

(b) all copper coin of the weight specified in Acts No. XXI of 1835,<sup>5</sup> No. XXII of 1844,<sup>6</sup> No. XIII of 1862<sup>5</sup> and the Indian Coinage Act, 1870,<sup>7</sup>

which

<sup>1</sup>The words "and eighth of a rupee" were omitted by s. 6 of the Indian Coinage (Amendment) Act, 1918 (4 of 1918), General Acts, Vol. VIII.

<sup>2</sup>This section was substituted for the original section 13 by s. 7 of the Indian Coinage (Amendment) Act, 1918 (4 of 1918), General Acts, Vol. VIII.

The original section ran as follows —

<sup>3</sup>13 The nickel coin specified in section 6 shall be a legal tender in payment or on account for any sum not exceeding one rupee at the rate of sixteen for a rupee "

<sup>4</sup>These words were substituted for the words "The two-anna" by s. 5 of the Indian Coinage (Amendment) Act, 1919 (21 of 1919).

<sup>5</sup>These words were inserted by s. 5 of the Indian Coinage (Amendment) Act, 1919 (21 of 1919)

<sup>6</sup>Repealed by the Indian Coinage Act, 1870

<sup>7</sup>Repealed by Act 13 of 1862.

<sup>8</sup>Repealed by this Act

XXIII of 1870

XXIII of 1870.

which may have been issued since the passing of those Acts respectively, and declared by those Acts respectively to be a legal tender, shall, notwithstanding anything contained in this Act or in any Act hereby repealed, but subject in the case of silver coin to the provisos contained in section 12 of this Act in so far as such provisos apply to like coins under this Act, continue to be a legal tender for the amounts for which the like silver and bronze coins are a legal tender under this Act respectively.

(2) All double pice copper coins which may have been issued under the Acts specified in sub-section (1), clause (b), shall continue to be a legal tender in payment or on account for any sum not exceeding one rupee at the rate of thirty-two for a rupee or two for an anna.

*Diminished, Defaced and Counterfeit\* <sup>1</sup>Coins.*

Power to  
certain per-  
sons to cut  
diminished  
or defaced  
silver coins.

16. Where any silver coin which has been coined and issued under the authority of the Governor General in Council is tendered to any person <sup>2</sup>authorised by the Governor General in Council or by the Local Government to act under this section, and such person has reason to believe that the coin—

(a) has been diminished in weight so as to be more than such percentage below standard weight as may be prescribed as the limit of reasonable wear, or

(b) has been defaced,

he shall, by himself or another, cut or break the coin.

Procedure in  
regard to  
coin cut  
under section  
16 (a).

17. A person cutting or breaking coin under the provisions of clause (a) of section 16 shall observe the following procedure, namely :—

(a) if the coin has been diminished in weight so as to be more than such percentage below standard weight as may be prescribed as the limit of reasonable wear, but not more than such further percentage as may be prescribed

<sup>1</sup>The word "*Silver*" was omitted by s. 6 (1) of the Indian Coinage (Amendment) Act, 1919 (21 of 1919).

<sup>2</sup>For persons so authorised, see General Statutory Rules and Orders.

prescribed in this behalf, he shall either return the pieces to the person tendering the coin, or, if such person so requests, shall receive and pay for the coin at such rates as may be prescribed in this behalf; and

- (b) if the coin has been diminished in weight so as to be more than such further percentage below standard weight so prescribed as aforesaid, he shall return the pieces to the person tendering the coin, who shall bear the loss caused by such cutting or breaking.

18. A person cutting or breaking coin under the provisions of clause (b) of section 16 shall observe the following procedure, namely :—

Procedure in regard to coin cut under section 16 (b).

- (a) if such person has reason to believe that the coin has been fraudulently defaced, he shall return the pieces to the person tendering the coin, who shall bear the loss caused by such cutting or breaking;
- (b) if such person has not reason to believe that the coin has been fraudulently defaced, he shall receive and pay for the coin at its nominal value.

*Explanation.*—For the purposes of this section a coin which there is reason to believe has been defaced by sweating shall be deemed to have been fraudulently defaced.

19. If a coin is liable to be cut or broken under the provisions of both clause (a) and clause (b) of section 16, the person cutting or breaking the coin shall deal with it,—

Procedure in regard to coin which is liable to be cut under both clause (a) and clause (b) of section 16.

- (a) if he has reason to believe that the coin has been fraudulently defaced, under clause (a) of section 18, and
- (b) in other cases, under section 17.

20. Where any silver <sup>1</sup>[or nickel] coin purporting to be coined or issued under the authority of the Governor General in Council is tendered to any person<sup>2</sup> authorised by the Governor General in Council

Power to certain persons to cut counterfeit silver coin and

or

<sup>1</sup> These words were inserted by s. 6 (2) of the Indian Coinage (Amendment) Act, 1919 (21 of 1919)

<sup>2</sup> For such authorised person, see General Statutory Rules and Orders.

procedure in  
regard to  
coin so cut

or by the Local Government to act under this section, and such person has reason to believe that the coin is counterfeit, he shall by himself or another cut or break the coin, and may at his discretion either return the pieces to the tenderer, who shall bear the loss caused by such cutting or breaking, or <sup>1</sup> [in the case of silver coin] receive and pay for the coin according to the value of the silver bullion contained in it.

*Supplemental Provisions.*

Power to  
make rules.

**21.** (1) The Governor General in Council may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) reduce the amount of remedy allowed by sections 5, 7 and 9 in the case of any coin ;

(b) provide for the guidance of persons authorised to cut or break coin under sections 16 and 20 ;

(c) determine the percentage of diminution in weight below standard weight not being less in any case than two per cent. which shall be the limit of reasonable wear ;

(d) prescribe the further percentage referred to in clause (a) of section 17, and the rates at which payments shall be made in the case of coins falling under the same clause ; and

(e) provide for the acceptance at prescribed rates by officers authorised in this behalf of the gold coins described in section 11 where such coins have lost weight so as to be of less weight than that for the time being prescribed for like coins by or under the Coinage Act, 1870,<sup>2</sup> as the least current weight. 33 & 34  
Vict., c. 1

(3) Every

<sup>1</sup> These words were inserted by s. 6 (2) of the Indian Coinage (Amendment) Act, 1919 (21 of 1919.)

<sup>2</sup> Collection of Statutes relating to India.

(3) Every such rule shall be published in the Gazette of India, and on such publication shall have effect as if enacted in this Act.

**22.** No suit or other proceeding shall lie against <sup>Bar of suits.</sup> any person in respect of anything in good faith done, or intended to be done, under or in pursuance of the provisions of this Act.

**23.** Nothing in this Act shall be deemed to <sup>Saving of making of other coins at Mints.</sup> prohibit or restrict the making at the Mint of coins intended for issue as money by the Government of any territories beyond the limits of British India.

**24.** <sup>\*\*\*\*1</sup> Copper coins of such descriptions as <sup>Saving of copper coins.</sup> at the time of the commencement of this Act may be coined at the Mint for issue under the authority of the Governor General in Council may <sup>\*\*\*\*2</sup> continue to be so coined until such time as the Governor General in Council may by notification in the Gazette of India otherwise direct, and all copper coins so coined shall be a legal tender in payment or on account for the amounts for which bronze coins of corresponding nominal value are a legal tender under this Act.

#### [THE SCHEDULE.]

#### *Repealed by Schedule II of Act 10 of 1914.*

<sup>1</sup> The words "The Acts mentioned in the schedule are hereby repealed to the extent specified in the last column thereof" and the words "Provided that" were repealed by s. 3 and schedule II of the Repealing and Amending Act, 1914 (10 of 1914) General Acts, Vol. VIII

<sup>2</sup> The words "notwithstanding the repeal of the said Acts" were repealed by s. 3. and schedule II of the Repealing and Amending Act, 1914 (10 of 1914), General Acts, Vol. VIII.



GOVERNMENT OF INDIA  
LEGISLATIVE DEPARTMENT.

**THE INDIAN FACTORIES  
ACT, 1911  
(ACT XII OF 1911).**

**AS MODIFIED UP TO THE 1st JUNE 1926.**

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CALCUTTA. GOVERNMENT OF INDIA  
CENTRAL PUBLICATION BRANCH  
1926

*Price As. 2 or 3d.*



# THE INDIAN FACTORIES ACT, 1911 (XII OF 1911).

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CHAPTER IX

SUPPLEMENTAL PROVISIONS.

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THE SCHEDULE

# ACT No. XII OF 1911<sup>1</sup>.

[24th March, 1911.]

## An Act to consolidate and amend the law regulat'ng labour in factories.

[As modified up to the 1st June, 1926.]

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories; It is hereby enacted as follows:—

### CHAPTER I.

#### PRELIMINARY.

1. (1) This Act may be called the Indian Factories Act, Short title,  
commencement  
and extent  
1911.

(2) It shall come into force on the first day of July 1912;  
and

(3) It extends to the whole of British India including British Baluchistan and the Sonthal Parganas

2. In this Act, unless there is anything repugnant in the Definitions. subject or context,—

(1) “child” means a person who is under the age of “Child,”  
<sup>2</sup>[fifteen] years:

(2) a person who works in a factory, whether for wages “Employed.”  
or not,—

(a) in a manufacturing process or handicraft, or

(b) in cleaning any part of the factory used for any manufacturing process or handicraft, or

(c) in cleaning or oiling any part of the machinery, or  
(d) in

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1909, Pt. V, p. 61, for Report of Select Committee, see *ibid.*, 1911, Pt. V, p. 63, and for Proceedings in Council, see *ibid.*, 1909, Pt. VI, p. 141, and *ibid.*, 1911, Pt. VI, pp. 13, 103, 183 and 501.

<sup>2</sup> This word was substituted for the word “fourteen” by s. 2 (a) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

(d) in any other kind of work whatsoever, incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process of handicraft therein,

shall be deemed to be employed therein :

1\* \* \* \*

“ Factory,”

<sup>2</sup>[(3) “ factory ” means—

(a) any premises wherein, or within the precincts of which, on any one day in the year not less than twenty persons are simultaneously employed and steam, water or other mechanical power or electrical power is used in aid of any <sup>3</sup>[manufacturing process]; or

(b) any premises wherein, or within the precincts of which, on any one day in the year not less than ten persons are simultaneously employed and any <sup>4</sup>[manufacturing process] is carried on, whether any such power is used in aid thereof or not which have been declared by the Local Government, by notification in the local official Gazette, to be a factory;

A declaration under clause (b) may be made in respect of any class of premises, or in respect of any particular premises];

“Manufacturing process”

<sup>5</sup>[(4) ‘ manufacturing process ’ means any process for or incidental to,

(a) making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, transport or sale, any article, or part of an article, or

(b) refining oil or pumping or filtering water, or

(c) supplying

<sup>1</sup> The explanation to cl. (2) of s. 2 was omitted by s. 2 (a) of Act XXVI of 1926.

<sup>2</sup> This clause was substituted for the original clause (3) by s. 2 (b) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>3</sup> These words were substituted for the words “ process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article;” by s. 2 (b) of Act XXVI of 1926.

<sup>4</sup> These words were substituted for the words “ such process ” by *ibid.*

<sup>5</sup> Original cl. (4) was repealed by s. 33 and Sch. II of Act II of 1922 and new cl. (4) was inserted by s. 2 (c) of Act XXVI of 1926.

(c) supplying, generating or transforming pneumatic, hydraulic or electrical energy,

and includes the baling of any material for transport.]

(5) "mill-gearing" includes every shaft, whether up-<sup>right, oblique or horizontal,</sup> and every wheel, drum, pulley, rope, chain, wire, driving strap or band by which the motion of the first moving power is communicated to any machine appertaining to any manufacturing process:

(6) "occupier" includes a managing agent or other person<sup>authorised to represent the occupier,</sup> authorised to represent the occupier:

(7) "prescribed" means prescribed by this Act or by "Prescribed" rules made thereunder:

<sup>1</sup>[(8) "week" means the period between midnight on "Week" Saturday night and midnight on the succeeding Saturday night.]

IV of 1923.

<sup>2</sup>[3. Nothing in this Act shall apply to any mine subject<sup>Application of Act,</sup> to the operation of the <sup>3</sup>Indian Mines Act, <sup>4</sup>[1923.]

## CHAPTER II.

### INSPECTORS AND CERTIFYING SURGEONS.

4. (1) The Local Government may, by notification in the<sup>Inspectors</sup> local official Gazette, appoint such persons as it thinks fit to be inspectors of factories within such local limits as it may assign to them respectively.

(2) No person shall be appointed to be an inspector under sub-section (1), or having been so appointed, shall continue to hold the office of inspector, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(3) The District Magistrate shall be an inspector under this Act.

(4) The

<sup>1</sup> This clause was substituted for the original clauses (8) and (9) by s. 2 (c) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This section was substituted for the original s. 3 by s. 3 of *ibid.*

<sup>3</sup> Genl. Acts, Vol. IX.

<sup>4</sup> These figures were substituted for the figures "1901" by s. 3 of Act XXVI of 1926.

(4) The Local Government may also, by notification as aforesaid, and subject to the control of the Governor General in Council, appoint such public officers as it thinks fit to be additional inspectors for all or any of the purposes of this Act within such local limits as it may assign to them respectively

(5) In any area where there are more inspectors than one, the Local Government may, by notification as aforesaid, declare the powers which such inspectors shall respectively exercise, and the inspector to whom the prescribed notices are to be sent.

(6) Every inspector shall be deemed to be a public servant within the meaning of the <sup>1</sup>Indian Penal Code and shall be officially subordinate to such authority as the Local Government may indicate in this behalf. XLV of 1860

Powers of  
inspector

5. Subject to any rules in this behalf, an inspector may, within the local limits for which he is appointed,—

(a) enter, with such assistants (if any) as he thinks fit, any place which is, or which he has reason to believe to be, used as a factory;

(b) make such examination of the premises and machinery and of any prescribed registers, and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act; and

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

Certifying  
surgeons

6. The Local Government may appoint such qualified medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such local limits as it may assign to them respectively.

Grant of  
certificate.

7. (1) A certifying surgeon shall, at the request of any person desirous of being employed in a factory situated within the local limits for which he is appointed, or of the parent or guardian of such person, or of the manager of the factory in which such person desires to be employed, examine such person

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<sup>1</sup> General Acts, Vol. I.

person and <sup>1</sup>[if he is fit for employment in a factory] grant him a certificate in the prescribed form, stating his age, as nearly as it can be ascertained from such examination, and <sup>2</sup>[that he is fit for such employment].

<sup>3</sup>[(2) A certifying surgeon may revoke any certificate granted to a child under sub-section (1) if, in his opinion, the child is no longer fit for employment in a factory.]

<sup>3</sup>[(3) Where a certifying surgeon refuses to certify that a person is fit for employment in a factory or revokes a certificate granted to a child in this behalf, he shall, if required by such person or child, or by the parent or guardian of such person or child, or by the manager of the factory in which such person or child desires to be employed, state in writing his reasons for such a refusal or revocation.]

8. A certifying surgeon may authorize <sup>4</sup>[any registered practitioner] to exercise the functions assigned to him by section 7, and may revoke such authority: Delegation of  
certifying  
surgeon's  
functions

Provided that no certificate granted under this section shall, unless confirmed, on personal examination of the person named therein, by the certifying surgeon who conferred the authority, be valid <sup>5</sup>[for a period of more than three months]

<sup>6</sup>[*Explanation.*—In this section the expression “registered practitioner” means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a registered practitioner for the purposes of this section.]

[8A. Where

<sup>1</sup> These words were inserted by s. 4 (a) of Act XXVI of 1926.

<sup>2</sup> These words were substituted for the words “whether he is fit for employment in a factory” by s. 4 (b) of *ibid.*

<sup>3</sup> These sub-sections were substituted for the original sub-section (2) by s. 4 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>4</sup> These words were substituted for the words “any person practising medicine or surgery” by s. 5 (a) of *ibid.*

<sup>5</sup> These words were substituted for the words “after the first date subsequent to the grant thereof on which such certifying surgeon visits the factory in which the person named therein is employed” by s. 5 (b) of *ibid.*

<sup>6</sup> This explanation was added by s. 5 (c) of *ibid.*

Compulsory  
medical  
examination

<sup>1</sup>[8A. Where an inspector is of opinion that a child employed in a factory is no longer fit for employment, he may serve on the manager of the factory a notice requiring that such child shall cease to be employed until he has been re-examined by a certifying surgeon or by a registered practitioner authorised by a certifying surgeon in this behalf.]

### CHAPTER III.

#### HEALTH AND SAFETY.

Sanitary  
provisions.

9. The following provisions shall apply to every factory :—

- (a) it shall be kept clean, and free from effluvia arising from any drain, privy or other nuisance;
- (b) it shall not be so overcrowded while work is carried on therein as to be dangerous or injurious to the health of the persons employed therein;
- (c) it shall be ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust or other impurities generated in the course of the work carried on therein that may be injurious to health;
- <sup>2</sup>[(d) the atmosphere shall not be rendered so humid by artificial means as to be injurious to the health of the persons employed therein.]

Provision as  
to ventilation by  
fans in certain  
factories

10. If in a factory, in which any process is carried on by which dust or other impurity is generated and inhaled by the workers to an injurious extent, it appears to the inspector that such inhalation could be to a great extent prevented by the use of a fan or other mechanical means, the inspector may serve on the manager of the factory an order in writing, directing that a fan or other mechanical means of a proper construction for preventing such inhalation <sup>3</sup>[shall be provided before such date as may be specified in the order, and shall thereafter be maintained and used ]

Lighting.

11. (1) Every factory shall be sufficiently lighted.

(2) In

<sup>1</sup> This section was inserted by s. 6 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This clause was added by s. 7 of *ibid.*

<sup>3</sup> These words were substituted for the words " be provided maintained and used before a specified date " by s. 5 of Act XXVI of 1926.

(2) In the case of any factory which is ~~not~~ in the opinion of the inspector so lighted, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for the attainment of a sufficient standard of lighting, and requiring him to carry them out before a specified date.

**12.** (1) In any factory in which humidity of the atmosphere is produced by artificial means, the water used for the purpose of producing humidity shall be taken either from a public supply of drinking water or from some other source of water ordinarily used for drinking, or shall be effectively purified before being used for the purpose of producing humidity. Purity of water used for humidifying.

(2) In the case of any factory in which any water required under sub-section (1) to be effectively purified is not in the opinion of the inspector so purified, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for effectively purifying the water and requiring him to carry them out before a specified date.

**13.** Every factory shall be provided with sufficient and suitable latrine accommodation, and if the Local Government so requires, with separate urinal accommodation for the persons employed in the factory. Provision of latrines and urinal accommodation.

Provided that the inspector may, subject to such conditions as the Local Government may lay down in this behalf, by an order in writing exempt any factory from the provisions of this section.

**14.** In every factory there shall be maintained a sufficient and suitable supply of water fit for drinking for the use of the persons employed in the factory. Water supply.

**15.** In every factory, the construction of which is commenced after the commencement of this Act, the doors of each room in which more than thirty persons are employed shall, except in the case of sliding doors, be constructed so as to open outwards. Doors of factory to open outwards.

**16.** (1) Every factory shall be provided with such means of escape in case of fire for the persons employed therein as can reasonably be required in the circumstances of each case. Provision of means of escape in case of fire.

(2) In the case of any factory which is not in the opinion of the inspector so provided, the inspector may serve on the manager

manager of the factory an order in writing, specifying the measures which he considers necessary for providing such means of escape, and requiring him to carry them out before a specified date.

Precautions  
against fire.

17. No person shall smoke, or use a naked light or cause or permit any such light to be used, in the immediate vicinity of any inflammable material in any factory.

Fencing

18. (1) (a) Every fly-wheel directly connected with a steam-engine, water-wheel or other mechanical power or electrical power in any part of the factory and every part of any water-wheel or engine worked by any such power,

(b) every hoist or teagle and every hoist-well, trap-door or other similar opening near which any person is liable to pass or be employed, and

(c) every part of the machinery <sup>1</sup>[and electrical fittings including live wires and switches] which the Local Government may by rule require to be kept fenced, shall be securely fenced.

(2) If in any factory there is any other part of the machinery or mill-gearing which may in the opinion of the inspector be dangerous if left unfenced, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for fencing such part in order to remove the danger, and requiring him to carry them out before a specified date.

(3) All fencing must be constantly maintained in an efficient state while the parts required to be fenced are in motion or use, except where they are under repair or are under examination in connection with repair or are necessarily exposed for the purpose of cleaning or lubricating or for altering the gearing or arrangements of the parts of the machinery

(4) Such provision as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery or boilers of any factory.

Repairs to  
buildings or  
machinery.

<sup>2</sup>[18A. (1) If an inspector is of opinion—

(a) that any factory or part thereof is in such a condition as to be dangerous to human life or safety, or

(b) that

<sup>1</sup> These words were inserted by s. 8 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This section was inserted by s. 9 of *ibid.*

- (b) that any part of the ways, works, machinery or plant used in a factory is in such a condition that it cannot be used without danger to human life, or safety,

he may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for removing the danger, and requiring him to carry them out before such date as may be specified therein.

(2) If, in the opinion of the inspector, the use of any part of the ways, works, machinery or plant in a factory involves imminent danger to human life, he may serve on the manager of the factory an order in writing, prohibiting the use thereof until it is duly repaired or altered.]

19. <sup>1</sup>[(1)] No woman or child shall be allowed to clean any part of the mill-gearing or machinery of a factory while the same is in motion by the action of steam, water or other mechanical power or electrical power, <sup>1\* \* \* \*</sup> or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of any power above described

Prohibition of employment of women and children in certain dangerous work.

<sup>2</sup>[(2) The Local Government may, by notification in the local official Gazette, prohibit in any factory or class of factories specified in the notification the cleaning by any person of any part so specified of any mill-gearing or machinery while the same is in motion by the action of steam, water or other mechanical or electrical power.]

<sup>3</sup>[19A. Where, in the opinion of the inspector, the presence in any factory or any part thereof of children, who, by reason of their age, cannot, under the provisions of this Act, be lawfully employed therein, involves danger to, or injury to the health of, such children, he may serve on the manager of such factory an order in writing, prohibiting the admission of such children to the factory or part thereof.]

Power to prohibit presence of children in factories.

<sup>3</sup>[19B. No person under the age of eighteen years and no woman shall be employed in any factory in any of the operations specified in Part I of the Schedule, or, save in accordance with the regulations contained in Part II of the Schedule, in any operation involving the use of lead compounds.]

Prohibition of employment of women and persons under eighteen years in certain processes.

## 20. No

<sup>1</sup> Section 19 was re-numbered as sub section (1) of s 19 and the words "as the case may be" were omitted by s. 6 (1) of Act XXXVI of 1926

<sup>2</sup> Sub-section (2) of s 19 was added by s 6 (2) of *ibid.*

<sup>3</sup> These sections were inserted by s 10 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

Prohibition of  
employment of  
women and  
children where  
cotton-openers  
are at work.

20. No woman or child shall be employed in the part of a factory for pressing cotton in which a cotton-opener is at work :

Provided that, if the feed-end of a cotton-opener is in a room separated from the delivery-end by a partition extending from the floor to the roof, <sup>1</sup>[or to such height as the inspector may, in any particular case, specify] women and children may be employed in the room in which the feed-end is situated.

## CHAPTER IV.

### HOURS OF EMPLOYMENT AND HOLIDAYS.

Rest periods in  
factories.

<sup>2</sup>[21. (1) In every factory there shall be fixed,

(a) for each person employed on each working day—

(i) at intervals not exceeding six hours, periods of rest of not less than one hour, or

<sup>3</sup>[(ii) at the request of the employees concerned, periods of rest, at intervals not exceeding five hours, of not less than half an hour each, the total duration of the periods of rest on that day not being less than one hour for each period of six hours' work done];

<sup>4</sup>[Provided that, in lieu of the periods provided under sub-clause (i) or sub-clause (ii) there may be fixed for each male person employed for not more than eight and a half hours on each working day, at the request of the employees concerned and with the previous sanction of the Local Government, a period of rest of not less than half an hour, so arranged that no such person shall work for more than five hours continuously, and]

(b) for each child working more than five and a half hours in any day, a period of rest of not less than half an hour.

(2) The

<sup>1</sup> The words were inserted by s. 11 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This section was substituted for the original s. 21 by s. 12 of *ibid.*

<sup>3</sup> This sub-clause was substituted by s. 7 of Act XXVI of 1926.

<sup>4</sup> This proviso was added by *ibid.*

(2) The period of rest under clause (b) shall be so fixed that no such child shall be required to work continuously for more than four hours.]

**22.** (1) No person shall be employed in any factory on a Weekly Holiday, Sunday, unless—

(a) he has had, or will have, a holiday for a whole day on one of the three days immediately preceding or succeeding the Sunday, and

(b) the manager of the factory has previous to the Sunday or the substituted day, whichever is earlier, given notice to the inspector of his intention so to employ the said person and of the day which is to be substituted and has at the same time affixed a notice to the same effect in the place mentioned in section 36.

<sup>1</sup>[Provided that no such substitution shall be made as will result in any person working for more than ten consecutive days without a holiday for a whole day.]

<sup>2</sup>[(2) where, in accordance with the provisions of sub-section (1), any person is employed on a Sunday in consequence of his having had a holiday on one of the three days preceding that Sunday, that Sunday shall, for the purpose of calculating the weekly hours of work of such person, be deemed to be included in the preceding week.]

3 \* \* \* \* \*

**23.** With respect to the employment of children in factories the following provisions shall apply:— Employment of children.

<sup>4</sup>(a) no child shall be employed in any factory unless he is in possession of a certificate granted under section 7 or section 8 showing that he is not less than <sup>5</sup>[twelve] years of age and is fit for employment in a factory and while at work carries either the certificate

<sup>1</sup> This proviso was added by s. 13 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX

<sup>2</sup> The original sub-section (2) was repealed by s. 33 and Sch. II of Act II of 1922 and new sub-section (2) was re-inserted by s. 2 of Act IX of 1923, Genl. Acts, Vol. IX.

<sup>3</sup> Sub-sections (3) and (4) of section 22 were repealed by s. 33 and Schedule II of *ibid*

<sup>4</sup> The provisions of this clause shall not apply to any child lawfully employed in a factory on or before the first day of July, 1921, see s. 14 (3) of *ibid*.

<sup>5</sup> This word was substituted for the word "nine" by s. 14 (1) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

certificate itself or a token giving reference to such certificate;

(b) no child shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening;

(c) no child shall be employed in any factory for more than <sup>1</sup>[six] hours in any one day.

Employment of women.

**24.** With respect to the employment of women in factories the following provisions shall apply —

(a) no woman shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening;

(b) no woman shall be employed in any factory for more than eleven hours in any one day.

Prohibition of employment of child or any other person in two factories on same day

**25.** No person shall employ, or permit to be employed, in any factory any \* \* \* <sup>2</sup> child <sup>3</sup>[or, save in such circumstances as may be prescribed, any other person] whom he knows, or has reason to believe, to have already been employed on the same day in any other factory:

Hours of employment of persons to be fixed

**26.** The manager of a factory shall fix specified hours for the employment of each <sup>4</sup>[person] employed in such factory, and no <sup>4</sup>[person] shall be employed except during such hours.

Limitation of working hours per week

<sup>5</sup>[**27.** No person shall be employed in a factory for more than sixty hours in any one week.]

Limitation of working hours per day

<sup>5</sup>[**28.** No person shall be employed in any factory for more than eleven hours in any one day.]

## CHAPTER V.

### Exceptions.

Exceptions for person holding positions of supervision, etc.

**29.** Nothing in any of the following sections, namely, 21, 22, 24, 26, 27 and 28, shall apply to persons who may, by rules

<sup>1</sup> This word was substituted for the word "seven" by s. 14 (2) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> The words "woman or" were omitted by s. 8 of Act XXVI of 1926.

<sup>3</sup> These words were inserted by s. 15 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>4</sup> This word was substituted for the words "woman and child" and the words "woman or child" respectively by s. 16 of *ibid.*

<sup>5</sup> These sections were substituted for the original section 27 by s. 17 of *ibid.*

<sup>6</sup> This chapter was substituted for the original Chapter V by s. 18 of *ibid.*

rules made by the Local Government under this Act, be defined to be persons holding positions of supervision or management or to persons employed in a confidential capacity.

**30.** (1) Where it is proved to the satisfaction of the Local Government—

- (a) that any class of work in a factory is in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory; or
- (b) that the work of any class of workers is essentially intermittent; or
- (c) that there is in any class of factories any work which necessitates continuous production for technical reasons, or
- (d) that any class of factories supplies the public with articles of prime necessity which must be made or supplied every day; or
- (e) that in any class of factories the work performed, by the exigencies of the trade or by its nature, cannot be carried on except <sup>1</sup>[(i)] at stated seasons or <sup>1</sup>[(ii)] at times dependent on the irregular action of natural forces;

the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose [and in such area as may be specified in the notification]<sup>2</sup>—

in case (a) such class of work from all or any of the provisions of sections <sup>1</sup>[21], 27 and 28,

in case (b) work of the nature described from all or any of the provisions of sections <sup>1</sup>[21], 22, [26]<sup>4</sup>, 27 and 28;

in case (c) work of the nature described from the provisions of sections 21, [22 and 28]<sup>5</sup>

in

<sup>1</sup> These figures and brackets were inserted by s. 9 (a) of Act XXVI of 1926

<sup>2</sup> These words were inserted by s. 9 (b) of *ibid*

<sup>3</sup> These figures were inserted by s. 9 (c) of *ibid*.

<sup>4</sup> These figures were inserted by s. 9 (d) of *ibid*.

<sup>5</sup> These figures and word were substituted for the word and figures " and 22 " by s. 9 (e) of *ibid*

in cases (d) and (e) such class of factories from the provisions of section 22.

<sup>1</sup>[in case (e) (ii) such class of factories from the provisions of section 26 ]

(2) The Local Government may, by general or special order, exempt for such period as may be specified in the order and on such conditions, if any, as it may impose, any factory from all or any of the provisions of sections 21, 22, 27 and 28, on the ground that such exemption is necessary in order to enable such factory to deal with an exceptional press of work.

(3) In such circumstances and subject to such conditions as may be prescribed, nothing in section 21, section 22, section 27 or section 28 shall apply to work on urgent repairs.

Payment for overtime.

**31.** Where, under the provisions of sub-section (1) <sup>2</sup>[or sub-section (2)] of section 30, any factory has been exempted from the provisions of section 27, every person employed in such factory for more than sixty hours in any one week shall be paid, in respect of the overtime, at a rate which shall be at least one and a quarter times the rate at which he is normally paid.

Special exemptions for indigo, tea and coffee factories.

**32.** The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt any indigo factory or any factory situated on, and used solely for the purposes of, a tea or coffee plantation, from all or any of the provisions of sections 21 and 22, on such conditions, if any, as it may impose.

Other special exemptions.

<sup>3</sup>[**32A.** The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose—

(a) any factory or class of factories from the provisions of section 22 in respect of persons employed therein in any engine-room or boiler-house,

(b) any fish-curing or fish-canning factory from the provisions of clause (a) of section 24 where the employment of women outside the limits provided by that clause is necessary to prevent any damage to or deterioration of any raw material.]

## CHAPTER VI.

<sup>1</sup> This paragraph was added by s. 9 (f) of Act XXVI of 1926.

<sup>2</sup> These words and figure were inserted by s. 10 of *ibid.*

<sup>3</sup> This section was inserted by s. 11 of *ibid.*

## CHAPTER VI.

## NOTICES AND REGISTERS.

**33.** (1) Every person occupying a factory shall,—

Person  
occupying  
factory to give  
notice.

<sup>1</sup>[on or before the date on which the factory commences working as such]

send to the inspector a written notice containing—

- (i) the name of the factory and of the place where it is situate,
- (ii) the address to which he desires his letters to be directed,
- (iii) the nature of the work performed in such factory,
- (iv) the nature and amount of the moving power therein, and
- (v) the name of the person who shall be deemed to be the manager of the factory for the purposes of this Act:

Provided that in the case of a seasonal factory such notice shall be sent on or before the date of starting work for each season.

(2) If the manager of the factory is changed, the occupier shall send to the inspector, within seven days from the date on which the change is made, written notice of the change.

(3) During any period for which no person has been designated as manager of a factory under this section, <sup>2</sup>[or during which the person designated does not manage the factory, any person found acting as manager of the factory or, if no such person is found, the occupier himself shall] be deemed to be the manager of the factory for the purposes of this Act.

**34.** <sup>3</sup>[When in any factory an accident occurs which causes] death or bodily injury, whereby the person injured is prevented from returning to his work in the factory during the forty-eight hours next after the occurrence of the accident, <sup>4</sup>[or which is due to any cause which has been notified in this

Notice to be  
given of  
accident.

<sup>1</sup> These words were substituted for clauses (a) and (b) by s. 19 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> These words were substituted for the words "the occupier shall himself" by s. 12 of Act XXVI of 1926.

<sup>3</sup> These words were substituted for the words "when any accident occurs in a factory causing" by s. 13 of *ibid*.

<sup>4</sup> These words were inserted by *ibid*.

this behalf by the Local Government in the local official Gazette], the manager shall send notice of the accident to such authorities in such form and within such time as may be prescribed.

Register of  
worker

<sup>1</sup>[35. In every factory there shall be kept, in the prescribed form, a register, of all the persons employed in such factory, of their hours of work and of the nature of their respective employment ]

<sup>2</sup>[Provided that, where the Local Government is satisfied that the conditions of work in any factory or class of factories are such that no contravention of the provisions of Chapter IV is possible in the case of that factory or of factories of that class, as the case may be, the Local Government may, by notification in the local official Gazette, exempt, on such conditions, if any, as it may impose, that factory or all factories of that class, as the case may be, from the provisions of this section in respect of persons, other than children, employed therein :

Provided, further, that, where in the opinion of the inspector a muster roll or register kept in a factory gives the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall be kept in place of the register prescribed under this section, and such muster roll or register shall thereupon, for all the purposes of this Act, be deemed to be the register so prescribed ]

A fixing of  
abstract and  
notice.

36. (1) There shall be affixed in some conspicuous place near the main entrance of every factory, in English and in the language of the majority of the operatives in such factory, the prescribed abstracts of this Act and of the rules made thereunder, and also a notice containing the standing orders of the factory upon the following matters, namely :—

- (a) the time of beginning and ending work on each day ;
- <sup>3</sup>[(b) the periods of rest fixed under section 21] ;
- (c) the hours of beginning and ending work for each shift (if any) ; and
- (d) the

<sup>1</sup> This section was substituted for the original section 35 by s. 20 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> These provisos were added by s. 14 of Act XXVI of 1926.

<sup>3</sup> This clause was substituted for the original clause (b) by s. 21 (a) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

of 1911.]

*Indian Factories.*

(d) the hours of employment of <sup>1</sup>[all persons employed];

<sup>2</sup>[(e) the weekly holidays fixed under section 22.]

(2) A copy of the said notice shall be sent to the inspector  
\* \* \* within one month of commencing work

<sup>4</sup>[(3) The said notice shall be correctly maintained and kept up to date and any change in the standing orders of the factory shall be entered therein by the manager before such change comes into force; and, when any such change is entered in the notice, a copy of the notice or of the order in which the change is made shall be sent in duplicate by the manager to the inspector within thirty-six hours ]

\* \* \* \* \*

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CHAPTER VII.

RULES

37. (1) Subject to the control of the Governor General <sup>Power to make rules.</sup> in Council, the Local Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the inspection of factories,
- (b) the manner in which inspectors are to exercise the powers conferred on them by this Act;
- (c) the duties to be performed by certifying surgeons;
- (d) the form of the certificate prescribed by section 7, the grant of a duplicate in the event of loss of the original certificate, and the fee, if any, to be charged for such duplicate;

(e) the

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<sup>1</sup> These words were substituted for the words "women and children, respectively, if not employed in shifts" by s 21 (b) of the Indian Factories (Amendment) Act 1922 (2 of 1922), Genl Acts, Vol IX.

<sup>2</sup> This clause was inserted by s 21 (c) of *ibid*.

<sup>3</sup> The words "within one month of the commencement of this Act, or, in the case of a factory which starts work after the commencement of this Act," were repealed by the Repealing and Amending Act, 1914 (10 of 1914), Genl Acts, Vol VIII

<sup>4</sup> This sub-section was substituted for the original sub-section (3) by s. 15 of Act XXVI of 1926

<sup>5</sup> Sub-section (4) of section 36 was repealed by s 33 and Sch II of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl Acts, Vol. IX.

- (e) the methods, including lime-washing, painting, varnishing and washing, to be adopted in order to secure cleanliness and freedom from effluvia;
- (f) the proportion which the number of cubic feet of space in any room shall bear to the number of persons employed at one time therein;
- (g) standards of ventilation <sup>1</sup>[and artificial humidification] and the methods to be adopted in order to secure their observance;
- (h) standards of latrine and urinal accommodation;
- (i) standards of water-supply;
- <sup>2</sup>[(j) the parts of the machinery and electrical fittings to be kept fenced in accordance with section 18, subsection (1), clause (c), and the provisions to be made for the protection from danger of persons employed in attending to the machinery, electrical fittings or boilers ]
- <sup>3</sup>[(j) the definition of ' persons ' under section 29 who shall be deemed to be persons holding positions of supervision or management or persons employed in a confidential capacity.]
- (k) the form of the notice prescribed by section 34, and the time within which and the authorities to whom it shall be sent;
- (l) the form of the register prescribed by section 35;
- (m) the abstracts of the Act and of the rules required by section 36;
- (n) the procedure to be followed in presenting and hearing appeals under this Act, including the appointment and remuneration of assessors; and
- (o) the manner of service of notices and orders upon occupiers or managers of factories.

eturns.

38. The Governor General in Council may \* \* \* make rules requiring occupiers or managers of factories to furnish

<sup>1</sup> These words were inserted by s. 22 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This clause was substituted for the original clause (j) by s. 3 of Act IX of 1923, Genl. Acts, Vol. IX.

<sup>3</sup> This clause was inserted by s. 22 (c) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>4</sup> The words " from time to time " were repealed by s. 33 and Sch. II of *ibid.*

furnish such returns, occasional or periodical, as may in his opinion be necessary for the effectual carrying out of this Act.

<sup>1</sup>[38A. The Governor General in Council may make rules for the adequate disinfection of wool used in factories which may be infected with anthrax spores.] Rules for prevention of anthrax.

39. (1) The power to make rules conferred by section 37, except clauses (l), (l) and (m) of sub-section (2) thereof, and by <sup>2</sup>[sections 38 and 38A] is subject to the condition of the rules being made after previous publication. Prior publication of rules.

X of 1897.

(2) The date to be specified in accordance with clause (3) of section 23 of the <sup>3</sup>General Clauses Act, 1897, as that after which a draft of rules proposed to be made under <sup>4</sup>[sections 37, 38 and 38A] will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

40. Rules made under this Chapter shall be published in the local official Gazette or the Gazette of India, as the case may be, and shall thereupon have effect as if enacted in this Act. Commencement of rules.

## CHAPTER VIII.

### PENALTIES AND PROCEDURE.

41. If in any factory—

Penalties

(a) any person is employed or allowed to work contrary to any of the provisions of this Act;

(b) any of the provisions of section 9 are not complied with;

(c) latrine or urinal accommodation in accordance with the provisions of section 13 is not provided;

(d) a supply of water for the persons employed is not maintained in accordance with the provisions of section 14;

(e) any

<sup>1</sup> This section was inserted by s. 23 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl Acts, Vol IX.

<sup>2</sup> These words and figures were substituted for the word and figures "section 38" by s 24 (a) of *ibid*

<sup>3</sup> Genl. Acts, Vol IV.

<sup>4</sup> These words and figures were substituted for the words and figures "sections 37 and 38" by s 24 (b) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl Acts, Vol IX.

- (e) any door is constructed in contravention of section 15;
- (f) any of the provisions of section 18, sub-section (1), (3) and (4), regarding fencing and the protection from danger of persons employed in attending to the <sup>1</sup>[machinery, electrical fittings or boilers] are not complied with,
- (g) any order of an inspector under section 10, section 11, section 12, section 16, <sup>2</sup>[section 18, section 18A or section <sup>3</sup>[19A]] is not complied with;
- (h) the register prescribed by section 35 is not kept up to date,
- (i) any of the provisions of section 36 are not complied with;
- (j) any notice or return required by this Act or by rules made thereunder to be furnished is not furnished;

the occupier and manager shall be jointly and severally liable to a fine which may extend to <sup>4</sup>[five hundred] rupees:

Provided that in cases where an appeal is allowed by section 50 no prosecution under clause (g) of this section shall be instituted until either the time prescribed by section 50 for the presentation of an appeal has expired or such appeal, if made, has been determined.

Exemption of  
occupier or  
manager from  
liability in  
certain cases

**42.** (1) Where the occupier or manager of a factory is charged with an offence against this Act, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory proves to the satisfaction of the Court—

- (a) that he has used due diligence to enforce the execution of this Act, and

(b) that

<sup>1</sup> These words were substituted for the words "machinery or boilers" by s. 25 (a) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> These words and figures were substituted for the words and figures "or section 18" by s. 25 (b) of *ibid*.

<sup>3</sup> These figures and letter were substituted for the figures and letter "19B" by s. 4 of Act IX of 1923, Genl. Acts, Vol. IX.

<sup>4</sup> These words were substituted for the words "two hundred" by s. 25 (c) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

- (b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like fine as if he were the occupier or manager, and the occupier or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the inspector at any time prior to the institution of the proceedings—

- (a) that the occupier or manager of the factory has used all due diligence to enforce the execution of this Act, and
- (b) by what person the offence has been committed, and
- (c) that it has been committed without the knowledge, consent or connivance of the occupier or manager, and in contravention of his orders,

the inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or manager of the factory, and such person shall be liable to the like fine as if he were the occupier or manager

**43. Any person who—**

Penalties for  
certain offences

- (a) wilfully obstructs an inspector in the exercise of any power under section 5, or fails to produce on demand by an inspector any registers or other documents kept in pursuance of this Act or the rules made thereunder, or conceals or prevents or attempts to prevent any person employed in a factory from appearing before or being examined by an inspector;
- (b) smokes, or uses a naked light, or causes or permits any such light to be used, in the immediate vicinity of any inflammable material in contravention of section 17; or
- (c) does or omits to do any other act prohibited or prescribed by this Act or any order or rule made thereunder;

shall

shall be punishable with fine which may extend to <sup>1</sup>[five hundred] rupees.

Power of Court  
to pay compen-  
sation out of  
fine.

<sup>2</sup>[43A. Where under this Act a Criminal Court imposes a fine or confirms in appeal, revision or otherwise, a sentence of fine in respect of an offence causing bodily injury or death, the Court may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured or, in the case of his death, to his legal representative :

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.]

Using false  
certificate.

44. Any person who knowingly uses or attempts to use, as a certificate granted to himself under section 7 or section 8, a certificate granted to another person under either of those sections, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with fine which may extend to twenty rupees.

Employment of  
children in two  
factories on the  
same day.

<sup>3</sup>[44A. Where a child is employed in any factory and such child has already been employed on the same day in any other factory, the parent or guardian or person having legal custody of or control over or direct benefit from the wages of the child shall be punished with fine, which may extend to twenty rupees, unless it appears to the Court that the offence was committed without the consent, connivance or wilful default of the parent, guardian, or such person as aforesaid.]

Limit to penalty  
in case of  
repetition of  
offence.

45. A person shall not be liable in respect of a repetition of the same kind of offence from day to day to any larger amount of fines than the highest fine fixed by this Act for the offence, except—

(a) where the repetition of the offence occurs after a prosecution has been instituted in respect of the original offence, or

(b) where

<sup>1</sup> These words were substituted for the words "two hundred" by s. 26 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This section was inserted by s. 27 of *ibid.*

<sup>3</sup> This section was added by s. 16 of Act XXVI of 1926.

- (b) where the offence is one of employing or allowing to be employed two or more persons contrary to the provisions of this Act.

**46.** If a child over the age of six years is found inside any room or part of a factory in which room or part children are employed and in which any manufacturing process or work incidental to any manufacturing process is being carried on, he shall, until the contrary is proved, be deemed to be employed in the factory. Presumption as to employment.

**47.** (1) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, it shall be on the accused to prove that such person is not under or over such age. Evidence as to age.

(2) A declaration in writing by a certifying surgeon that he has personally examined a person employed in a factory and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of that person.

**48.** (1) No prosecution under this Act, except a prosecution under section 43, clause (b), shall be instituted except by or with the previous sanction of the inspector. Cognizance of offences.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence against this Act or any rule or order thereunder, other than an offence against section 43, clause (b) <sup>1</sup>[or section 44.]

**49.** No Court shall take cognizance of any offence against this Act or any rule or order thereunder, <sup>2</sup>[other than an offence under section 33], unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed. Limitation of prosecutions.

## CHAPTER IX.

### SUPPLEMENTAL PROVISIONS.

**50.** (1) Any person on whom an order under section 10, Appeals section 11, section 12, section 16 <sup>3</sup>[section 18, section 18A or section

<sup>1</sup> These words and figures were added by s 28 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl Acts, Vol IX

<sup>2</sup> These words and figures were inserted by s 17 of Act XXVI of 1926

<sup>3</sup> These words and figures were substituted for the words and figures "or section 18" by s 29 (a) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl Acts, Vol IX

section 19A] has been served may, within fourteen days from the date of service of the order, appeal against such order to the Local Government or to such authority as it may appoint in this behalf, who may confirm, modify or reverse any such order

1\* \* \* \*

(3) In the case of any appeal under sub-section (1) the appellate authority may, and if so requested by the appellant in the petition of appeal shall, hear the appeal with the aid of two assessors, one of whom shall be appointed by the said authority and the other by such body representing the interest of the industry concerned as the Local Government may in this behalf prescribe.

Provided that if no assessor is appointed by such body within the prescribed period, or if the assessor so appointed fails to attend at the time and place fixed for the hearing of the appeal, the said authority may proceed to hear the appeal without the aid of such assessor, or, if it thinks fit, without the aid of any assessor

<sup>2</sup>[(4) Except in the case of an appeal against an order under section 19A, the appellate authority may, on the application of the appellant, suspend the operation of an order of the inspector pending the decision of the appeal. But where no such suspension has been granted, such order shall be complied with notwithstanding the fact that an appeal has been presented ]

Special provision regarding computation of time.

51. (1) In respect of any area in which the hours of the day are not ordinarily reckoned according to local mean time, the times and hours referred to in section 2, sub-section (8), section 26 and section 36 shall be reckoned according to the standard of time ordinarily observed in such area.

(2) The Local Government may, by notification in the local official Gazette, direct that, for any specified area and during any specified months, for the morning and evening hours mentioned in section 23, clause (b), <sup>3</sup>[and section 24, clause (a)], such one of the following sets of morning and evening hours,

as

<sup>1</sup> Sub-section (2) was omitted by s. 5 of Act IX of 1923, Genl. Acts, Vol. IX.

<sup>2</sup> This sub-section was inserted by s. 29 (b) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>3</sup> These words and figures were substituted for the words and figures "section 24, clause (a), and section 29" by s. 30 of *ibid.*

as it deems suitable, reckoned according to the standard of time ordinarily observed in such area, shall be substituted, namely:

five o'clock in the morning and half past six o'clock in the evening;

six o'clock in the morning and half past seven o'clock in the evening;

half past six o'clock in the morning and eight o'clock in the evening;

seven o'clock in the morning and half past eight o'clock in the evening.

52. In computing the hours referred to in section 23, clause (c), section 24, clause (b), <sup>1</sup>[section 27, section 28 and section 31], any interval by which work is interrupted for half an hour or more shall be excluded. Computation of hours of employment

53. The Local Government may, subject to the control of the Governor General in Council, by special order in writing, direct, with respect to any factory or class of factories, that different branches or departments of work carried on in the same factory shall for all or any of the purposes of this Act be treated as if they were separate factories. Power to declare parts of a factory to be separate factories.

54. This Act shall apply to factories belonging to the Crown. Application to Crown factories.

55. [*Special provision for Burma for employment on Sunday.*] Repealed by s. 33 and Sch. II of Act 2 of 1922.

56. In case of any public emergency, the Local Government may, by an order in writing, exempt any factory from this Act to such extent and during such period as it thinks fit. Power to exempt from Act

57. The Governor General in Council may, if he thinks fit, exercise any power which is by this Act conferred upon the Local Government. Exercise of power by Governor General in Council.

58. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. Protection to persons acting under Act.

59. [*Repeal and savings.*] Repealed by s. 33 and Sch. II of Act 2 of 1922.

## <sup>1</sup>[THE SCHEDULE

<sup>1</sup> These words and figures were substituted for the words and figures "section 28 and section 32" by s. 31 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX

<sup>1</sup>[THE SCHEDULE.

(See section 19B.)

PART I

1 Work at a furnace where the reduction or treatment of zinc or lead ores is carried on:

2 The manipulation, treatment, or reduction of ashes containing lead, the desilverising of lead or the melting of scrap, lead or zinc:

3. The manufacture of solder or alloys containing more than ten per cent of lead:

4 The manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead:

5. Mixing or pasting in connection with the manufacture or repair of electric accumulators.

6. The cleaning of work-rooms where any of the processes aforesaid are carried on.

PART II.

1. Where dust or fume from a lead compound is produced in the process, provision must be made for drawing the fume or dust away from the persons employed by means of an efficient exhaust draught so contrived as to operate on the dust or fume as nearly as may be at its point of origin:

2. The persons employed must undergo the prescribed medical examination at the prescribed intervals, and the prescribed record must be kept with respect to their health:

3. No food, drink, or tobacco, shall be brought into, or consumed in, any room in which the process is carried on, and no person shall be allowed to remain in any such room during meal times:

4. Adequate protective clothing in a clean condition shall be provided by the employer and worn by the persons employed:

5. Such suitable cloak-room, mess-room and washing accommodation as may be prescribed shall be provided for the use of the persons employed:

6. The rooms in which the persons are employed, and all tools and apparatus used by them, shall be kept in a clean condition.]

<sup>1</sup> This Schedule was substituted for the original Schedules I and II by s. 32 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.